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Act 1061



REPUBLIC OF GHANA

THE ONE THOUSAND AND SIXTY-FIRST

ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA
ENTITLED

INSURANCE ACT, 2021

AN ACT to establish the National Insurance Commission, to provide for the regulation and supervision of the insurance market and for related matters.

DATE OF ASSENT: 5th January, 2021.

PASSED by Parliament and assented to by the President

The Commission

Establishment of the Commission

1. (1) There is established by this Act, the National Insurance Commission as a body corporate.

(2) The Commission may, for the performance of the functions of the Commission, acquire and hold property, dispose of property and enter into a contract or any other related transaction.

(3) Where there is a hindrance to the acquisition of land, the land may be acquired for the Commission under the Land Act, 2020 (Act 1036) and the cost shall be borne by the Commission.

Objects of the Commission

2. (1) The objects of the Commission are to

- (a) promote a fair, safe, efficient and stable insurance market and the development of a sustainable insurance market;

- (b) secure protection for past, current and prospective customers;
- (c) contribute to the stability of the financial system of the country;
- (d) support and encourage financial inclusion within the insurance market; and
- (e) support and promote insurance penetration.

(2) The Commission shall, in implementing the object under paragraph (b) of subsection (1), have regard for the

- (a) different degrees of experience and expertise that different customers and prospective customers may have in relation to the insurance market and insurance products;
- (b) needs that past, current and prospective customers may have for advice and accurate information, including the insurance needs of the customers, insurance products, insurance services and insurance markets; and
- (c) general principle that past, current or prospective customers have to take responsibility for their informed decisions in respect of an insurance product.

(3) The Commission shall, in implementing the object under paragraph (c) of subsection (1), have regard for the need to ensure that the regulation and supervision of insurance products and insurance services that support financial inclusion are proportionate to the nature, scale, complexity and diversity of the insurance business.

Functions of the Commission

3. To achieve the objects under section 2, the Commission shall

- (a) issue directives, directions, instructions and guidelines to insurers, reinsurers and insurance intermediaries;
- (b) issue licences under this Act;
- (c) monitor the operations of the insurance market;
- (d) enforce compliance by licensees with the provisions of this Act and any other relevant enactment;
- (e) supervise licensees on an individual basis and where appropriate on a group basis;
- (f) enforce compliance, in the insurance market, of regulatory requirements on anti-money laundering and countering the financing of terrorism;

- (g) promote public awareness and undertake public education on insurance;
- (h) co-operate with and provide assistance to law enforcement authorities, regulatory authorities in the country and foreign regulatory authorities;
- (i) where appropriate, approve
 - (i) minimum rates of premiums in respect of any class or sub-class of insurance business; and
 - (ii) maximum rates of commission in respect of any class or sub-class of insurance business;
- (j) invest any moneys standing to the credit of the Commission in safe securities that the Minister considers appropriate;
- (k) take enforcement action against persons carrying on unlicensed insurance or reinsurance business; and
- (l) perform any other functions under this Act and any other enactment that are ancillary to the objects of the Commission.

Guiding principles

4. The Commission shall, in implementing the objects of the Commission, have regard for

- (a) international standards and best practice;
- (b) promoting the adoption of a risk sensitive approach in the regulation and supervision of licensees;
- (c) promoting effective risk management by licensees;
- (d) the need to avoid unnecessary compliance costs;
- (e) promoting
 - (i) effective competition in the insurance market, in the interest of consumers; and
 - (ii) growth and development in the insurance market; and
- (f) enhancing transparency in the performance of the functions of the Commission.

Independence of the Commission

5. Except as otherwise provided in the Constitution or by any other enactment, the Commission is not subject to the direction or control of a person or an authority in the performance of the functions of the Commission.

Governance of the Commission

Governing body of the Commission

6. (1) The governing body of the Commission is a Board consisting of

- (a) a chairperson nominated by the President;
- (b) the Commissioner of Insurance;
- (c) a representative of the Ministry of Finance not below the rank of a Director, nominated by the Minister;
- (d) a lawyer of not less than ten years standing at the Bar with the relevant experience in the insurance industry nominated by the Ghana Bar Association;
- (e) an experienced chartered insurer or a qualified insurance practitioner nominated by the insurance industry trade bodies; and
- (f) two other persons nominated by the President at least one of whom is a woman.

(2) The President shall, in making nominations under paragraphs (a) and (f) of subsection (1), have regard to the qualification and experience of the persons in finance and insurance.

(3) The President shall, in accordance with article 70 of the Constitution, appoint the chairperson and other members of the Board.

(4) A member of the Board shall not

- (a) be an officer, a Manager, a Director or a shareholder of an insurance regulated entity; or
- (b) have an interest in an insurance regulated entity.

Functions of the Board

7. (1) The Board

- (a) is responsible for the formulation of strategy for the Commission;
- (b) shall oversee the management of the Commission and the use of the resources of the Commission;
- (c) shall ensure that the Commission establishes and maintains an effective governance framework; and
- (d) shall ensure the efficient and effective performance of the functions of the Commission.

(2) The Board shall, in the performance of the functions of the Board,

- (a) have regard to the guiding principles specified in section 4; and
- (b) ensure that

- (i) the Commission operates in a financially responsible manner;
- (ii) the internal financial and management controls of the Commission are adequate; and
- (iii) the Commission operates in accordance with the principles of good governance.

Duties and liabilities of members of the Board

8. (1) A member of the Board has the same fiduciary relationship with the Commission and the same duty to act with loyalty and in good faith as a director of a company incorporated in accordance with section 190 of the Companies Act, 2019 (Act 992).

(2) Without limiting subsection (1), a member of the Board has a duty

- (a) to act honestly and in the best interest of the Commission in the performance of the functions of the member;
- (b) to exercise the degree of care and diligence in the performance of the functions of the member that a person in that position would reasonably be expected to exercise in the circumstance;
- (c) not to disclose information that would not otherwise be available to the member, to any person or make use of or act on, that information, except in the performance of the functions of the Commission or as may be permitted by law;
- (d) not to abuse the position of the office; and
- (e) not to pursue the personal interest of the member at the expense of the interest of the Commission.

(3) A member of the Board who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine or a term of imprisonment or to both as specified in the First Schedule.

Tenure of office of members of the Board

9. (1) A member of the Board shall hold office for a period of four years and is eligible for re-appointment for another term only.

(2) Subsection (1) does not apply to the Commissioner of Insurance.

(3) A member of the Board may, at any time, resign from office in writing addressed to the President through the Minister and copied to the chairperson of the Board or in the case of the chairperson resigning, copied to each member of the Board.

(4) A member of the Board who is absent from three consecutive meetings of the Board without sufficient cause ceases to be a member of the Board.

(5) The President may, by a letter addressed to a member, revoke the appointment of that member.

(6) Where a member of the Board is, for a sufficient reason, unable to act as a member, the Minister shall determine whether the inability would result in the declaration of a vacancy.

(7) Where there is a vacancy

(a) under subsection (3), (4), (5), or subsection (2) of section 13;

(b) as a result of a declaration under subsection (6); or

(c) by reason of the death of a member

the Minister shall notify the President of the vacancy and the President shall, in accordance with this Act, appoint another person for the unexpired term.

Meetings of the Board

10. (1) The Board shall meet at least once every three months for the conduct of business at a time and place determined by the chairperson.

(2) The chairperson shall, on the request in writing of not less than one-third of the membership of the Board, convene an extraordinary meeting of the Board at a time and place determined by the chairperson.

(3) The chairperson shall preside at meetings of the Board and in the absence of the chairperson, a member of the Board, other than the Commissioner elected by the members present from among the number shall preside.

(4) The quorum for a meeting of the Board is five members of the Board.

(5) Matters before the Board shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Board may co-opt a person to attend a meeting of the Board, but that person shall not vote on any matter for decision at the meeting.

(7) The proceedings of the Board shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member.

(8) Subject to this section, the Board shall determine the procedure for the meeting of the Board.

Resolutions of the Board without a meeting

11. (1) The Board may pass a resolution without holding a meeting if

- (a) the Board, at a meeting, has
 - (i) resolved that resolutions may be passed under this section; and
 - (ii) approved procedures for passing a resolution under this section, including the method for members of the Board to indicate the approval of the resolution;
- (b) a majority of the members of the Board indicate agreement with the resolution in accordance with the procedures referred to in subparagraph (ii) of paragraph (a); and
- (c) all the members of the Board were informed of the proposed resolution or in a case where a member of the Board was not informed of the proposed resolution, reasonable effort was made to inform that member of the Board of the proposed resolution.

(2) A resolution passed under this section shall take effect as if the resolution was passed at a meeting of the Board.

Reliance on report, financial data and other information

12. (1) A member of the Board may rely on a report, financial data, professional or expert advice or any other information prepared or given by

- (a) an employee of the Commission who the member reasonably believes to be reliable and competent in relation to the matters concerned;
 - (b) a professional or expert in relation to matters that the member reasonably believes to be within the competence of that person;
 - (c) another member of the Board; or
 - (d) a committee of the Board on which the member of the Board did not serve.
- (2) This section applies to a member of the Board who
- (a) acts in good faith;
 - (b) makes a proper inquiry if the circumstances require the need for that inquiry; or

- (c) has no knowledge that the reliance on the information given is unwarranted.

Disclosure of interest

13. (1) A member of the Board who has an interest in a matter for consideration by the Board

- (a) shall disclose, in writing, the nature of the interest and the disclosure shall form part of the record of the consideration of the matter; and
- (b) is disqualified from being present at or participating in the deliberations of the Board in respect of that matter.

(2) Where a member contravenes subsection (1), the chairperson shall notify the Minister who shall inform the President, in writing, to revoke the appointment of that member.

(3) Without limiting any further cause of action that may be instituted against a member, the Board shall recover any benefit derived by the member who contravenes subsection (1) in addition to the revocation of the appointment of that member.

(4) A disclosure of interest made under subsection (1) shall be entered in the Register of Board Members' Interest kept by the Commission.

Avoidance of transactions in breach of section 13

14. (1) Subject to this section, a transaction entered into by the Commission in respect of which a member of the Board has an interest is voidable unless the interest was disclosed by that member in accordance with section 13.

(2) Despite subsection (1), a transaction

- (a) may be avoided only within six months of the Board becoming aware of the failure by the member of the Board to disclose the interest; and
- (b) is not voidable if the Board received a fair value in respect of the transaction.

(3) For the purposes of subsection (2), a determination as to whether the Board received a fair value for a transaction shall be made on the basis of the information known to the Board and the member of the Board at the time that the transaction was entered into.

(4) The avoidance of a transaction under subsection (1) does not affect the title or interest of a person in a property that that person has acquired if the property was acquired

- (a) from a person other than the Commission;
- (b) for valuable consideration; and
- (c) without knowledge of the circumstances of the transaction under which the person referred to in paragraph (a) acquired the property from the Commission.

Establishment of committees

15. (1) The Board may establish committees consisting of members of the Board or non-members or both to perform a function of the Board.

(2) A committee composed of members and non-members of the Board shall be chaired by a member of the Board.

(3) Section 13 applies to members of a committee of the Board.

Allowances

16. Members of the Board and members of a committee of the Board shall be paid the allowance determined by the Board in consultation with the Minister.

Policy directives

17. The Minister may give directives to the Board on matters of policy and the Board shall comply.

Administrative Provisions

Appointment of the Commissioner of Insurance

18. (1) The President shall, in accordance with article 195 of the Constitution, appoint a Commissioner of Insurance.

(2) The Commissioner shall hold office on the terms and conditions specified in the letter of appointment.

Qualification of the Commissioner

19. A person is qualified for appointment as a Commissioner of Insurance if that person has

- (a) a professional insurance qualification; and
- (b) at least ten years post qualification experience in insurance matters.

Functions of the Commissioner

20. (1) The Commissioner is responsible for the day-to-day administration and operation of the Commission.

(2) The Commissioner may delegate a function to an officer of the Commission but shall not be relieved of the ultimate responsibility for the performance of the delegated function.

Appointment of the Deputy Commissioner of Insurance

21. (1) The President shall, in accordance with article 195 of the Constitution, appoint a Deputy Commissioner of Insurance.

(2) The Deputy Commissioner shall hold office on the terms and conditions specified in the letter of appointment.

Qualification of the Deputy Commissioner

22. A person is qualified for appointment as a Deputy Commissioner if that person has

- (a) a professional insurance qualification; and
- (b) at least five years post qualification experience in insurance matters.

Functions of the Deputy Commissioner

23. (1) The Deputy Commissioner shall assist the Commissioner and perform any other function assigned by the Board.

(2) The Deputy Commissioner shall act in the absence of the Commissioner.

Secretary to the Board

24. (1) The Board shall designate an officer of the Commission as Secretary to the Board.

(2) The Secretary shall

- (a) arrange the meetings of the Board;
- (b) keep records and minutes of meetings of the Board;
- (c) keep record of resolutions passed by the Board;
- (d) keep the Register of Board Members' Interest; and
- (e) perform any other functions assigned by the Board.

(3) The secretary, in the performance of the functions under subsection (2), is answerable to the Board.

Appointment of other staff

25. (1) The President shall, in accordance with article 195 of the Constitution, appoint other staff of the Commission that are necessary for the efficient and effective performance of the functions of the Commission.

(2) The Commission may, on the recommendation of the Board, engage the services of consultants and experts for the effective discharge of the functions of the Commission.

Publication of appointment and revocation of appointment

26. The Commission shall, by publication

- (a) in the *Gazette*,
- (b) in a daily newspaper of national circulation, and
- (c) on the website of the Commission

issue a notice of the appointment or revocation of appointment of the Commissioner, Deputy Commissioner and any other member of the Board.

Internal Audit Unit

27. (1) The Commission shall have an Internal Audit Unit in accordance with section 83 of the Public Financial Management Act, 2016 (Act 921).

(2) The Internal Audit Unit shall be headed by an Internal Auditor who shall be appointed in accordance with the Internal Audit Agency Act, 2003 (Act 658).

(3) The Internal Auditor is responsible for the internal audit of the Commission.

(4) The Internal Auditor shall, subject to subsections (3) and (4) of section 16 of the Internal Audit Agency Act, 2003 (Act 658), at intervals of three months

- (a) prepare and submit to the Board, a report on the internal audit carried out during the period of three months immediately preceding the preparation of the report; and
- (b) make recommendations in each report, with respect to matters which appear to the Internal Auditor as necessary for the conduct of the affairs of the Commission.

(5) The Internal Auditor shall, in accordance with subsection (4) of section 16 of the Internal Audit Agency Act, 2003 (Act 658), submit a copy of each report prepared under this section to the Commissioner and the chairperson of the Board.

Financial Provisions

Funds of the Commission

28. The funds of the Commission include

- (a) donations and grants;
- (b) loans, advances and overdrafts;
- (c) levies and contributions;
- (d) administrative penalties;
- (e) income from investments made by the Commission; and
- (f) any other internally generated funds.

Bank account of the Commission

29. The moneys for the Commission shall be paid into a bank account opened for the purpose by the Commission with the approval of the Controller and Accountant-General.

Expenses of the Commission

30. The expenses of the Commission shall be charged on the funds of the Commission.

Borrowing powers of the Commission

31. Subject to section 76 of the Public Financial Management Act, 2016 (Act 921), the Commission may obtain loans and any other credit facilities.

Levies and contributions payable to the Commission

32. (1) A licensee shall, during a financial year, pay

- (a) a levy,
- (b) a motor contribution, if the licensee sells motor insurance,
or
- (c) any other type of contribution determined by the
Commission

to the Commission in respect of that financial year.

(2) The Commission shall, in consultation with the insurance industry trade bodies, determine the amount of levies and contributions

payable by a licensee in accordance with the Fees and Charges (Miscellaneous Provisions) Act, 2018 (Act 983).

Budget and work programme of the Commission

33. (1) The Commissioner shall, within three months before the commencement of each financial year, prepare, in respect of that financial year,

- (a) a budget setting out the estimate of the expected
 - (i) income; and
 - (ii) recurrent and capital expenditure; and
- (b) a work programme containing a general description of the work and activities that the Commission plans to undertake.

(2) The estimated expenditure of the Commission shall include an amount for the reserves of the Commission.

(3) The reserves shall be invested in safe securities to earn optimal returns.

(4) The Commissioner shall submit to the Board, a copy of the budget and work programme not less than two months before the commencement of the financial year.

(5) The Board shall, not later than one month before the commencement of the financial year, consider the budget and work programme and

- (a) approve the budget and work programme for the Commission;
- (b) reject the budget or work programme or both; or
- (c) revise the budget or work programme or both.

(6) Where the budget is not approved by the Board before the commencement of the financial year, the Commission shall, on an interim basis, adopt the budget of the Commission for the previous financial year.

(7) Where the budget is approved by the Board after the commencement of the financial year, the approved budget shall apply to the Commission from the beginning of that financial year.

Accounts and audit

34. (1) The Commission shall keep books, records, returns and other documents relevant to the accounts in the form approved by the Auditor-General.

(2) The Commission shall, at the end of each financial year, submit the accounts of the Commission to the Auditor-General for audit.

(3) The Auditor-General shall, within six months after the end of the immediately preceding financial year, audit the accounts, submit the report to Parliament and forward a copy each of the audit report to the Minister and the Commission.

(4) The financial year of the Commission is the same as the financial year of Government.

Annual report and other reports

35. (1) The Commission shall, within thirty days after the receipt of the audit report, submit an annual report to the Minister covering the activities and operations of the Commission for the year to which the annual report relates.

(2) The annual report shall include the report of the Auditor-General.

(3) The Minister shall, within thirty days after the receipt of the annual report, submit the report to Parliament with a statement that the Minister considers necessary.

(4) The Commission shall submit to the Minister any other report that the Minister may require in writing.

Prohibitions and Restrictions

Prohibition against unlicensed insurance business

36. (1) Subject to section 37, a person shall not carry on or purport to carry on an insurance business unless that person holds a licence that authorises the person to carry on the insurance business in accordance with this Act.

(2) Without limiting subsection (1), a person

(a) is considered to carry on an insurance business if the person, as an insurer or reinsurer

(i) enters into a restricted insurance contract;

(ii) occupies any premises in the country with a view to carry on an insurance business; or

(iii) makes an offer to or invites a person resident in the country to enter into, renew or vary an insurance contract; and

(b) purports to carry on an insurance business if that person uses a

- (i) name,
- (ii) style,
- (iii) designation,
- (iv) description,
- (v) title, or
- (vi) trade or service mark,

that represents or implies that the person is an insurer or a reinsurer.

(3) A person who carries on or purports to carry on an insurance business contrary to subsection (1) commits an offence and is liable on summary conviction to a fine or a term of imprisonment as specified in the First Schedule.

Exemption of certain class of insurers

37. (1) Subsection (1) of section 36 does not apply to

- (a) a foreign reinsurer or an underwriter that is a member of a recognised association of underwriters that enters into
 - (i) a reinsurance contract with a licensed insurer; or
 - (ii) a retrocession contract with a licensed reinsurer; or
- (b) a foreign insurer that carries on an insurance business in accordance with an authorisation granted by the Commission under section 39.

(2) A foreign reinsurer that opens a contact office in the country does not contravene subsection (1) of section 36 if

- (a) the Commission has approved the contact office under section 47; and
- (b) the foreign reinsurer operates the office in accordance with
 - (i) any requirements of the directives or Regulations relating to contact offices; and
 - (ii) any conditions imposed by the Commission.

Restricted insurance contract

38. (1) A person shall not enter into a restricted insurance contract with a foreign insurer unless the contract is authorised by the Commission in accordance with section 39.

(2) Despite subsection (1), a restricted insurance contract entered into, without lawful authorisation under section 39, is enforceable by a party to the contract.

(3) A person who contravenes subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Authorisation in relation to restricted and specified types of insurance contracts

39. (1) Despite subsection (1) of section 37, the Commission may authorise a foreign insurer, either as the sole insurer or as a coinsurer with one or more licensed insurers, to enter into

- (a) one or more restricted insurance contracts; or
- (b) an insurance contract of a specific type or description.

(2) The Commission shall not grant an authorisation under subsection (1) unless

- (a) the Commission is of the opinion that the authorisation is justified on any of the following grounds:
 - (i) there is insufficient capacity in the country to insure the risk covered under the insurance contract;
 - (ii) there is no licensed insurer who is willing to insure the risk covered under the insurance contract; or
- (b) the Commission is satisfied that
 - (i) the foreign insurer is authorised, in the home country in which the principal place of business of the foreign insurer is situated, to enter into an insurance contract of the type for which the authorisation is sought;
 - (ii) the foreign insurer has satisfied the regulatory and supervisory requirements in the home country in relation to the insurance business to be carried out under the authorisation; and
 - (iii) the insurance contract would be considered as lawfully entered into by the foreign insurer if entered into in the home country of the foreign insurer.

(3) For the purpose of this section and section 37, “foreign insurer” includes an underwriter that is a member of a recognised association of underwriters.

(4) An application by a foreign insurer shall be made through a licenced insurer or reinsurer.

Licensing

Categories of licence

40. (1) A licence to carry on an insurance business shall be in one of the following categories:

- (a) insurance licence;
- (b) reinsurance licence; or
- (c) innovative insurance licence.

(2) An innovative insurance licence may be granted in the class of an

- (a) innovative insurer; or
- (b) innovative reinsurer.

(3) A licensee shall not carry on an insurance business contrary to the category or class of licence issued to the licensee.

(4) The holder of an insurance licence shall carry on direct insurance business only.

(5) A holder of an insurance licence who undertakes co-insurance, shall do so with

- (a) one or more licensed insurers; or
- (b) a foreign insurer granted an authorisation under subsection (1) of section 39.

(6) The holder of a reinsurance licence shall carry on a reinsurance business only.

(7) The holder of an innovative insurance licence shall carry on insurance business in accordance with

- (a) this Act, the Regulations and any directives that apply to innovative insurance business; and
- (b) the terms and conditions of the licence that the Commission may specify.

(8) The Commission shall not grant an insurance licence and a reinsurance licence to the same person.

(9) A licensee that contravenes subsection (3) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Prohibition against licensing composite insurers

41. (1) The Commission shall not grant an insurance licence that authorises the holder to carry on both short term and long term insurance business.

(2) Despite subsection (1), the Commission may authorise

- (a) a short term insurer to enter into a specified type of micro life insurance contract; and
- (b) a life insurer to enter into a specified type of short term micro insurance contract that meets the requirements specified in the Regulations.

Application for insurance or reinsurance licence

42. (1) A company incorporated in the country that seeks to carry on an insurance business may apply to the Commission for an insurance licence or a reinsurance licence.

(2) An application under subsection (1) shall be

- (a) made in the approved form; and
- (b) accompanied by
 - (i) a business plan containing the information required by the Commission;
 - (ii) any relevant documents specified in the directives; and
 - (iii) the fee that the Commission may determine.

Grant of insurance or reinsurance licence

43. (1) The Commission may grant an insurance licence or a reinsurance licence to an applicant if the Commission is satisfied that

- (a) the applicant has met the requirements for licensing under this Act, the Regulations and the directives with respect to the application;
- (b) the applicant intends to carry on an insurance business of the class for which the applicant seeks authorisation;
- (c) the applicant has the capacity to carry on the proposed insurance business in a prudent manner in accordance with
 - (i) this Act,
 - (ii) sound insurance principles,
 - (iii) the capital resource requirements, and

- (iv) any other relevant requirements specified in the directives;
- (d) the applicant has the capacity to comply with a condition in the licence imposed by the Commission in accordance with section 187;
- (e) the following are appropriate having regard for the nature, scale, complexity and diversity of the insurance business of the applicant or proposed insurance business and the risks to which the applicant is, or will be, exposed
 - (i) the ownership, corporate and management structure of the applicant;
 - (ii) the governance framework of the applicant;
 - (iii) the procedures and controls of the applicant;
 - (iv) the financial resources of the applicant; and
 - (v) the reinsurance or retrocession strategy and procedures of the applicant;
- (f) in the case of an applicant that is a member of a group,
 - (i) the Commission will be able to obtain adequate information concerning the other members of the group;
 - (ii) the structure of the group, of which the applicant is a member, shall not prevent or hinder the effective supervision by the Commission of the applicant; and
 - (iii) if appropriate, the group of which the applicant is a member shall be subject to group-wide supervision;
- (g) the significant owners, proposed directors, senior managers and key persons of the proposed insurance business meet the fit and proper criteria requirements of the Commission; and
- (h) it is not against the public interest to grant the licence.

(2) Subsection (1) does not apply to an innovative insurance licence.

(3) Without limiting subsection (1), the Commission may refuse to grant a licence to an applicant if the Commission has reasonable grounds to believe that any person who has an interest in the applicant does not satisfy the fit and proper requirements of the Commission.

(4) The Commission shall, within four months after the date of receipt of a complete application for an insurance licence or a reinsurance licence, take a decision on the application.

Notification and publication of decision

44. (1) The Commission shall, within fourteen days of determining an application for an insurance licence or a reinsurance licence, give notice in writing of the decision of the Commission to the applicant.

(2) Where the Commission

(a) refuses to grant a licence to an applicant, or

(b) imposes conditions on the grant of the licence,

the decision shall contain the reasons for the refusal or imposition of the conditions.

(3) Where the Commission grants a licence to an applicant, the Commission shall, within fourteen days of giving notice to the applicant, publish the decision of the Commission

(a) in the *Gazette*; and

(b) on the website of the Commission.

(4) Where the Commission has imposed conditions on the grant of the licence, the Commission shall publish the conditions imposed together with the publication of the grant of the licence unless the Commission considers that it would not be in the public interest to do so.

Duration of licence

45. (1) A licence issued by the Commission is valid for twelve months from the date of issue and may, on application, be renewed.

(2) Where an application for renewal of a licence is made on or before the period specified in paragraph (d) of subsection (2) of section 50 but is not determined by the Commission by the expiry date, the licence shall continue in force until the application for renewal is determined by the Commission.

Commencement of business

46. (1) A licensed insurer or a licensed reinsurer shall, within fourteen days of commencing a licensed insurance business, give written notice of the commencement of the business to the Commission.

(2) Where a licensed insurer or licensed reinsurer does not commence the licensed insurance business within six months from the date of the issuance of the licence, the insurer or reinsurer shall not commence the licensed insurance business without the prior written consent of the Commission.

Contact office

47. The Commission may, on the application of a foreign reinsurer, grant approval, in writing, for the establishment by that reinsurer of a contact office in the country.

Cancellation of licence

48. (1) Subject to subsection (2), the Commission may cancel an insurance licence or a reinsurance licence if

- (a) the insurer or reinsurer applies to the Commission in writing for the cancellation of the licence;
- (b) the insurer or reinsurer does not commence the licensed insurance or reinsurance business within a period of six months from the date of issuance of the licence;
- (c) the Commission determines that the insurer or reinsurer has ceased to carry on the licensed insurance or reinsurance business in or from the country;
- (d) the Commission is entitled to an enforcement action against the insurer or reinsurer in accordance with sections 178 to 183;
- (e) the Commission determines that the insurer or reinsurer has provided false or misleading information to the Commission for the purposes of obtaining the licence; or
- (f) the insurer or reinsurer has been wound-up and dissolved.

(2) The Commission shall not cancel an insurance licence or reinsurance licence on any of the grounds specified in paragraphs (a) to (e) of subsection (1) unless the Commission is satisfied that the licensed insurer or licensed reinsurer does not have any liabilities under an insurance contract in respect of the insurance business of the insurer or reinsurer.

(3) The Commission shall not cancel an insurance licence or a reinsurance licence under paragraph (d) of subsection (1) unless the Commission has obtained an order under section 182.

Notice of cancellation of licence

49. (1) The Commission shall, before cancelling an insurance licence or a reinsurance licence under paragraphs (b) to (e) of subsection (1) of

section 48, give the licensed insurer or licensed reinsurer a written notice of the intention to cancel the licence, stating

- (a) the grounds on which the Commission intends to cancel the licence; and
- (b) that unless the licensed insurer or licensed reinsurer objects in writing to the cancellation, the licence shall be cancelled on a date not less than fourteen days after the date of the notice.

(2) The Commission shall consider any objection received under subsection (1) before deciding whether or not to cancel the licence.

(3) Where the Commission decides to cancel an insurance licence or a reinsurance licence after considering an objection raised by the licensed insurer or licensed reinsurer, the Commission shall provide, in writing, the reasons for the cancellation of the licence.

Application for renewal of licence

50. (1) An insurer or reinsurer may apply to the Commission for the renewal of the licence of that insurer or reinsurer.

- (2) An application under subsection (1) shall
 - (a) be in writing,
 - (b) contain the prescribed information and be in the prescribed form,
 - (c) be accompanied with the prescribed document and renewal fee, and
 - (d) be made not later than
 - (i) three months before the date of expiry of the licence, or
 - (ii) a later date that the Commission permits.

(3) The Commission may require a licensed insurer or a licensed reinsurer to furnish the Commission with any other document or information as the Commission considers necessary to determine the application for renewal of a licence.

- (4) The Commission may, after the review of the application,
 - (a) grant
 - (i) a licence, or
 - (ii) a licence with conditions, or
 - (b) refuse to grant a licence.

Grant of renewal of licence

51. (1) The Commission shall renew the licence of an insurer or a reinsurer where the Commission is satisfied that the insurer or reinsurer

- (a) continues to meet the requirements for the licence issued, and
- (b) is in compliance with this Act, the Regulations and directives.

(2) The renewal of a licence under this section is effective from the date when the licence renewed would have expired but for the renewal.

*Changes in Significant Ownership and Level of Control***Requirement for approval for change in significant ownership or level of control**

52. (1) A person shall not, except with the prior written approval of the Commission, become a significant owner of a licensed insurer or a licensed reinsurer.

(2) A person who is a significant owner of a licensed insurer or a licensed reinsurer shall not, except with the prior written approval of the Commission

- (a) increase or reduce the level of control of that person over the licensed insurer or licensed reinsurer; or
 - (b) cease to be a significant owner of the insurer or reinsurer.
- (3) A licensed insurer or licensed reinsurer shall not
- (a) cause,
 - (b) permit, or
 - (c) acquiesce in

any dealing with the shares of that licensed insurer or licensed reinsurer that would result in a contravention of subsection (1) or (2).

(4) A person who contravenes subsection (1), (2) or (3) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Application for approval of change in control

53. (1) An application to the Commission for approval under subsection (1) or (2) of section 52 shall be made by the licensed insurer or licensed reinsurer concerned on behalf of the person who intends to

- (a) become or cease to be a significant owner of the licensed insurer or licensed reinsurer; or

(b) significantly increase or reduce the level of control of that person over the licensed insurer or licensed reinsurer.

(2) The Commission may, in determining whether to grant approval under section 52, take into account any matter which the Commission reasonably considers relevant.

(3) Without limiting subsection (2), the Commission shall consider whether

- (a) a person becoming a significant owner or significantly increasing the level of control of that person over the licensed insurer or licensed reinsurer satisfies the fit and proper criteria of the Commission;
- (b) following the change of significant ownership or level of control, the ownership structure of the licensed insurer or licensed reinsurer shall be appropriate having regard for the nature, scale, complexity and diversity of the insurance business; and
- (c) the change in significant ownership or level of control is or likely to
 - (i) adversely affect the financial soundness of the licensed insurer or licensed reinsurer or the ability of the Commission to supervise the significant ownership or level of control;
 - (ii) be prejudicial to the policyholders of the licensed insurer or licensed reinsurer; or
 - (iii) pose a significant systemic risk.

Power to require disposal of interest or prohibit exercise of rights

54. (1) The Commission may issue a direction to

- (a) a person who
 - (i) becomes a significant owner in, or
 - (ii) significantly increases the level of control of that person over a licensed insurer or a licensed reinsurer, without obtaining the prior written approval of the Commission; or
- (b) a person who is a significant owner of a licensed insurer or a licensed reinsurer if the Commission has reasonable grounds to believe that
 - (i) the person does not satisfy the fit and proper criteria of the Commission; or

(ii) any of the factors specified in subsection (3) applies as a result of the significant ownership of that person in, or the level of control of that person over, the licensed insurer or licensed reinsurer.

(2) A direction issued by the Commission under subsection (1) may

- (a) require that person to dispose of the interest of the person in the licensed insurer or the licensed reinsurer, in whole or in part, within the period specified in the direction; or
- (b) prohibit that person from exercising any rights, including voting rights, attached to the interest of the person in the licensed insurer or the licensed reinsurer.

(3) Where the ownership structure of the licensed insurer or licensed reinsurer

- (a) is not appropriate having regard for the nature, scale, complexity and diversity of the insurance business of the licensed insurer or licensed reinsurer,
- (b) adversely affects the financial soundness of the licensed insurer or licensed reinsurer or the ability of the Commission to supervise the licensed insurer or licensed reinsurer,
- (c) is prejudicial to the policyholders of the licensed insurer or licensed reinsurer, or
- (d) poses a systemic risk

the Commission may issue a direction to that person for the purpose of subparagraph (ii) of paragraph (b) of subsection (1).

(4) Where the Commission issues a direction under paragraph (a) of subsection (1) to a person, the Commission may direct that during the period before the interest of that person is disposed of, the person is prohibited from exercising any rights that attach to the interest including

- (a) voting rights; and
- (b) rights to receive a distribution.

(5) Sections 52, 53 and 57 apply in relation to a disposal to be made in compliance with a direction issued under subsection (1).

(6) A person who, without justifiable excuse, fails to comply with the requirements of a direction issued under this section is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Changes in Directors, Senior Managers and Key Persons in Control Functions

Approval for appointment of directors and other key persons

55. (1) A licensed insurer or a licensed reinsurer shall not appoint a director, senior manager or key person in a control function except with the prior written approval of the Commission.

(2) The Commission shall not grant approval under subsection (1) unless the Commission is satisfied that

- (a) the person concerned has satisfied the fit and proper criteria of the Commission; and
- (b) following the appointment, the management structure of the licensed insurer or licensed reinsurer is appropriate having regard for the nature, scale, complexity and diversity of the insurance business of the licensed insurer or licensed reinsurer.

(3) A licensed insurer or a licensed reinsurer shall provide written notice to the Commission within fourteen days after a director, senior manager or key person in a control function

- (a) is appointed; or
- (b) ceases to
 - (i) hold office with the licensed insurer or licensed reinsurer;
 - (ii) be employed by the licensed insurer or licensed reinsurer; or
 - (iii) act for the licensed insurer or licensed reinsurer.

(4) The written notice provided under subsection (3) shall include a statement of the reasons for the director, senior manager or key person in a control function ceasing to hold office with, be employed by or act for the licensed insurer or the licensed reinsurer.

(5) A person who contravenes subsection (1) or subsection (3) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Approval for removal of directors and other key persons

56. (1) Where the Commission has reasonable grounds to believe that a person who holds a position or performs a function specified in subsection (2) is not fit and proper to continue to hold that position or

perform that function, the Commission may, by written direction, require the licensed insurer or licensed reinsurer concerned to

- (a) remove that person from office and replace the person with another person acceptable to the Commission;
- (b) ensure that the person ceases to undertake certain specified functions in relation to the licensed insurer or licensed reinsurer; or
- (c) take any other remedial action in relation to that person as the Commission may determine.

(2) Subsection (1) applies to the following persons:

- (a) a director;
- (b) a senior manager;
- (c) a key person in a control function; and
- (d) a person undertaking any function for the licensed insurer or licensed reinsurer that may be specified by the Regulations for the purpose of this paragraph.

(3) A direction issued under subsection (1)

- (a) shall state whether the specified requirements have immediate effect or the period within which they must be complied with;
- (b) may include directions consequential upon or ancillary to the requirements specified in the notice; and
- (c) may direct that, in the case of a person who the Commission has required the licensed insurer or licensed reinsurer to remove from office, that person may not be reappointed, or accept reappointment, to the same position, or to any specified position, with the insurer or reinsurer
 - (i) at any time;
 - (ii) for a period specified by the Commission; or
 - (iii) until the conditions specified by the Commission have been met.

(4) A contract of employment entered into by the licensed insurer or licensed reinsurer or any provision in the constitution of the licensed insurer or licensed reinsurer does not affect the validity of this section.

(5) A person who accepts an appointment contrary to the direction issued under subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

(6) A licensed insurer or a licensed reinsurer that fails to comply with a direction issued under subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Eligibility of directors, senior managers and key persons

57. (1) Where before or after the Commission approves

(a) the appointment of a director, senior manager or key person in a control function of a licensed insurer or licensed reinsurer, or

(b) a significant owner of a licensed insurer or licensed reinsurer the licensed insurer or licensed reinsurer becomes aware of any information that is reasonably material to the fit and proper assessment by the Commission of the director, senior manager or key person, the licensed insurer or licensed reinsurer shall notify the Commission of the information as soon as reasonably practicable.

(2) A licensed insurer or licensed reinsurer that contravenes subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Solvency and Capital Requirements

Maintenance of financially sound condition

58. (1) A licensed insurer or a licensed reinsurer shall

(a) maintain the insurance business of the licensed insurer or licensed reinsurer in a financially sound condition by

(i) maintaining assets,

(ii) providing for the liabilities of the insurance business, and

(iii) conducting the insurance business

in a manner that allows the licensed insurer or licensed reinsurer to meet the liabilities of the licensed insurer or licensed reinsurer when the liabilities fall due and

(b) maintain the capital resources of that licensed insurer or licensed reinsurer at a level adequate to support the licensed insurance or licensed reinsurance business, taking into account the nature, scale, complexity, diversity and risk profile of the insurance or reinsurance business; and

(c) conduct the insurance business or reinsurance business in accordance with sound insurance principles.

(2) This section does not limit the specific prudential requirements specified in this Act, the Regulations or the directives.

Stated capital

59. (1) A licensed insurer or a licensed reinsurer shall ensure that the stated capital of the licensed insurer or licensed reinsurer is equal to or exceeds

- (a) the minimum amount specified in the directives, or
- (b) the amount specified in a direction issued by the Commission under section 61.

(2) A licensed insurer or a licensed reinsurer shall not, without the prior written approval of the Commission,

- (a) pass a resolution to reduce the stated capital of that licensed insurer or licensed reinsurer; or
- (b) cause or permit the stated capital of that licensed insurer or licensed reinsurer to be reduced.

(3) A resolution passed in contravention of paragraph (a) of subsection (2) is void.

(4) Subsection (2) applies in cases where the stated capital of the licensed insurer or the licensed reinsurer is higher than the minimum amount specified in the directives or in any direction issued by the Commission under section 61.

(5) A licensed insurer or a licensed reinsurer who contravenes subsection (1) or (2) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Capital adequacy requirements

60. (1) A licensed insurer or a licensed reinsurer shall maintain capital resources, determined in accordance with the directives, that are equal to or exceed

- (a) the capital adequacy requirements specified in the directive; or
- (b) in a case where the Commission issues a direction under section 61, the capital adequacy requirements specified in that direction.

(2) A licensed insurer or a licensed reinsurer shall, on an ongoing basis, maintain adequate procedures and controls to monitor and assess the capital resources and capital requirements of that licensed insurer or licensed reinsurer.

(3) A licensed insurer or a licensed reinsurer who contravenes subsection (1) or (2) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Direction in relation to capital

61. (1) Where the Commission considers it appropriate, having regard for the nature, scale, complexity and diversity of the insurance business carried on, or proposed to be carried on, by a licensed insurer or a licensed reinsurer and the risk profile of the licensed insurer or licensed reinsurer, the Commission may issue a direction to the licensed insurer or licensed reinsurer

- (a) requiring the licensed insurer or licensed reinsurer to increase the stated capital to an amount higher than the minimum specified in the directions;
- (b) increasing the capital adequacy requirements applicable to the licensed insurer or licensed reinsurer to an amount higher than that specified in the directive;
- (c) limiting or restricting the capital components that may be relied upon by the licensed insurer or licensed reinsurer in determining the capital resources of the licensed insurer or licensed reinsurer.

(2) A direction issued under subsection (1) shall specify a reasonable period for compliance unless the circumstances justify an immediate compliance.

(3) A licensed insurer or a licensed reinsurer who fails to comply with a direction issued under subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Maintenance of segregated funds

62. (1) A long term insurer or a reinsurer shall establish and maintain segregated funds as required by the directives.

(2) A licensed insurer or a licensed reinsurer who contravenes subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Notification of failure to comply

63. (1) A licensed insurer or a licensed reinsurer shall, as soon as practicable, notify the Commission, in writing, if the licensed insurer or licensed reinsurer

- (a) is not in compliance with section 58, subsection (1) of section 59, section 60 or 62; or

(b) has reasonable grounds to believe that, at any time in the ensuing three years, it is likely to fail to comply with a requirement imposed under section 58, 59, 60 or 62.

(2) A licensed insurer or a licensed reinsurer who contravenes subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Prudential requirements specified in a directive

64. (1) The Commission shall

- (a) specify the capital resource, capital adequacy and other prudential requirements applicable to licensed insurers and licensed reinsurers in a directive; and
- (b) ensure that the directive requires that the capital requirements applicable to a licensed insurer or a licensed reinsurer take account of the risks to which that licensed insurer or licensed reinsurer is exposed.

(2) The requirements specified in the directive may, in accordance with subsection (1), require the valuation of different types of risk to which a licensed insurer or licensed reinsurer is exposed.

(3) Without limiting subsections (1) and (2), the directive

- (a) shall specify
 - (i) the capital components that constitute capital resources; and
 - (ii) the capital adequacy requirements applicable to a licensed insurer or a licensed reinsurer;
- (b) shall specify restrictions and limits on the capital components that may be relied upon to meet the capital requirements specified in the directive;
- (c) shall specify requirements in relation to the valuation of assets and liabilities, including liabilities under insurance contracts;
- (d) shall include
 - (i) methods for estimating or valuing the assets of a licensed insurer or a licensed reinsurer, including contingent assets, and for this purpose, may specify the assets of an insurer or reinsurer that are admissible or inadmissible, whether in whole or in part; and

- (ii) methods for estimating or valuing the liabilities, of a licensed insurer or a licensed reinsurer, including contingent liabilities and any technical provisions, and for this purpose may specify specific types and categories of the technical provisions;
- (e) shall specify requirements in relation to licensed insurers and licensed reinsurers that are part of a group, with the objective of ensuring that
 - (i) group risks and impact are taken into account; and
 - (ii) there is adequate prudential regulation of insurance groups;
- (f) shall require licensed insurers or licensed reinsurers to establish and maintain reserves;
- (g) shall include requirements in relation to
 - (i) the maintenance, operation and restructuring of segregated funds; and
 - (ii) the allocation of profits and losses, and distributions, regarding participating policies;
- (h) shall include requirements and restrictions relating to investments; and
- (i) may include any other requirements or matters as the Commission considers appropriate to
 - (i) the maintenance by licensed insurers and licensed reinsurers of a sound financial condition;
 - (ii) the assessment of the solvency and financial condition of licensed insurers and licensed reinsurers;
 - (iii) the protection of policyholders from financial loss; and
 - (iv) the protection of policyholder funds.

(4) For the purposes of paragraphs (a) and (b) of subsection (3), the method for determining or calculating capital adequacy requirements may be by reference to a formula, framework or amount or a combination of methods and may adopt a standardised approach, permit the use of full or partial internal models or adopt a combined approach.

(5) The directives may require licensed insurers and licensed reinsurers to comply with internationally recognised standards, practices or methodologies.

(6) The directives may provide for matters specified in this section in relation to different categories or descriptions of licensed insurers, licensed reinsurers or circumstances.

Restrictions on Licensed Insurers and Licensed Reinsurers

Shares to be fully paid for in cash

65. (1) A share issued by a licensed insurer or licensed reinsurer on or after the commencement date of the business shall be fully paid for in cash unless the Commission approves otherwise in writing.

(2) A licensed insurer or licensed reinsurer that issues a share for a consideration other than cash without the written approval of the Commission is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

(3) For the purpose of subsection (1), “paid for in cash” means the receipt of money by the licensed insurer or licensed reinsurer for a share at the time of or subsequent to the issue of shares.

Distribution by licensed insurer or licensed reinsurer

66. (1) A licensed insurer or licensed reinsurer shall not make a distribution unless, immediately after the distribution, the licensed insurer or licensed reinsurer complies with

(a) the requirements specified in subsection (1) of section 58, subsection (1) of section 60 and subsection (1) of section 62; and

(b) the capital and solvency requirements specified in the directives.

(2) A licensed insurer or a licensed reinsurer that contravenes subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

(3) A distribution by a licensed insurer or a licensed reinsurer to a shareholder, means

(a) the direct or indirect transfer of an asset, other than the shares of the licensed insurer or licensed reinsurer for the benefit of that shareholder, or

(b) incurring a debt for the benefit of a shareholder in relation to shares held by that shareholder and whether by means

of the purchase of an asset, the purchase, redemption or other acquisition of shares, a transfer of indebtedness or otherwise.

Prohibition on advances and loans

67. (1) Subject to subsections (2) and (3) and any exemptions specified in a directive, a licensed insurer or licensed reinsurer shall not

- (a) acquire or deal in the shares of that licensed insurer or licensed reinsurer;
- (b) lend money or make advances on the security of the shares of that licensed insurer or licensed reinsurer;
- (c) lend any of the funds of that licensed insurer or licensed reinsurer to a connected person;
- (d) grant credit; or
- (e) guarantee or provide a security in connection with a loan to a connected person.

(2) Subsection (1) does not apply to a distribution permitted under section 66.

(3) A licensed insurer or licensed reinsurer that intends to carry out a transaction under subsection (1) shall provide the Commission with a written notice

- (a) of the intention to carry out the transaction, and
- (b) specifying the details of the transaction.

(4) Where the Commission, on receiving a notice under subsection (3), considers that the Commission has no objection to the transaction, the Commission may issue the licensed insurer or licensed reinsurer with a written notice of no objection.

(5) A licensed insurer or licensed reinsurer that carries out a transaction specified under subsection (1) without having received a written notice of no objection from the Commission under subsection (4) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Statutory Deposit

Requirement to make statutory deposit

68. (1) A licensed insurer or licensed reinsurer shall deposit in an account established and maintained with an approved bank in the joint names of

the licensed insurer and the Commission or licensed reinsurer and the Commission, funds in an amount at least equal to

- (a) the amount specified in the directives; or
- (b) a greater amount as may be specified by the Commission in a direction issued under subsection (2).

(2) Where the Commission considers it appropriate, having regard for the nature, scale, complexity and diversity of the business carried on by a licensed insurer or a licensed reinsurer and the risk profile of the licensed insurer or licensed reinsurer, the Commission may issue a direction to the

- (a) licensed insurer requiring the licensed insurer to increase the statutory deposit of the licensed insurer; or
- (b) licensed reinsurer requiring the licensed reinsurer to increase the statutory deposit of the licensed reinsurer

to an amount greater than the amount specified in the directive.

(3) A direction issued under subsection (2) shall specify a reasonable period within which the licensed insurer or licensed reinsurer shall comply with the direction by depositing additional funds in the account maintained with the approved bank.

(4) The deposited funds may be invested as permitted by the Commission.

(5) Where the total value of deposited assets is at any time less than the minimum amount, the licensed insurer or licensed reinsurer shall make good the deficiency by depositing additional funds with the approved bank.

(6) For the purpose of this section,

- (a) “approved bank” means a bank that is licensed by the Bank of Ghana and approved by the Commission as an escrow agent to hold a deposit on behalf of a licensed insurer;
- (b) “minimum amount” means the greater amount of
 - (i) the amount specified in the direction; or
 - (ii) the amount specified by the Commission in a direction issued under subsection (2); and
- (c) “deposited assets” means the total of
 - (i) the funds deposited in accordance with this section that are retained as cash; and
 - (ii) any investment that represents the deposited funds or any part of the deposited funds.

(7) A licensed insurer or licensed reinsurer who contravenes subsection (1) or (5) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Use of deposited assets

69. (1) The deposited assets of a licensed insurer or licensed reinsurer shall be dealt with solely as follows:

- (a) to make a payment or transfer to the licensed insurer or licensed reinsurer in accordance with section 70; or
- (b) to make a payment or transfer to a statutory manager or liquidator appointed with respect to the licensed insurer or licensed reinsurer in accordance with this section.

(2) The deposited assets of a licensed insurer or licensed reinsurer shall not be used to

- (a) make a payment to, or
 - (b) make a payment with respect to
- any other licensed insurer or licensed reinsurer.

(3) Where a statutory manager or liquidator is appointed for a licensed insurer or licensed reinsurer

- (a) the deposited assets shall be realised; and
- (b) the net proceeds shall be paid to the statutory manager or the liquidator.

(4) Any moneys paid to the statutory manager or the liquidator shall only be used

- (a) for the purpose of satisfying the liabilities of the licensed insurer or licensed reinsurer to the policyholders of the licensed insurer or cedants of the licensed reinsurer; and
- (b) if there is any surplus after the liabilities of the policyholders of the licensed insurer or licensed reinsurer have been satisfied, for the other purposes of the statutory management or liquidation.

(5) The Commission may transfer an investment to the statutory manager or liquidator.

(6) Where a licensed insurer or licensed reinsurer becomes insolvent at a time when a statutory manager or liquidator has not been appointed, the Commission may

- (a) realise any deposited assets, and
- (b) retain the net proceeds together with any deposited assets held as cash, pending the appointment of a statutory manager or liquidator.

Release of deposit

70. (1) The Commission may, on the application of a licensed insurer or licensed reinsurer, authorise the payment or transfer to the licensed insurer or licensed reinsurer, of deposited assets equal in value to the surplus if the Commission is satisfied that the total value of the deposited assets attributable to a licensed insurer or licensed reinsurer exceeds the minimum amount.

(2) The Commission shall not authorise a payment or transfer under subsection (1) unless after the payment or transfer is made, the total value of the deposited assets is equal to or exceeds the minimum amount.

(3) Where a licensed insurer or licensed reinsurer ceases to carry on insurance business, the insurer or reinsurer may apply to the Commission for the release of any deposited assets.

(4) The Commission shall not authorise the release of any deposited assets on the application of a licensed insurer or licensed reinsurer unless that insurer or reinsurer has

- (a) satisfied the liabilities of the licensed insurer or licensed reinsurer to policyholders and to cedants; or
- (b) made arrangements satisfactory to the Commission for the satisfaction of the liabilities of the licensed insurer or licensed reinsurer to policyholders.

Payment of interest or other income to licensed insurer or licensed reinsurer

71. (1) Subject to subsection (2), the Commission shall, on or before 30th January of each year, authorise payment to a licensed insurer or licensed reinsurer of

- (a) any interest earned on, or
- (b) income received from,

deposited assets in the immediately preceding financial year.

(2) Where the value of the deposited assets attributable to a licensed insurer or licensed reinsurer is less than the minimum amount, the Commission shall

- (a) require the retention of the interest or other income received in respect of approved assets that would otherwise be payable to the insurer or reinsurer as is necessary to make good the deficit; and
- (b) authorise payment of the balance, if any, to the licensed insurer or licensed reinsurer.

Reinsurance and Retrocession

Reinsurance or retrocession strategy, procedures and plans

72. (1) A licensed insurer or licensed reinsurer shall establish and maintain

- (a) a written reinsurance or retrocession strategy appropriate for the
 - (i) nature,
 - (ii) scale,
 - (iii) complexity and diversity of the business of the licensed insurer or licensed reinsurer,
 - (iv) risk profile of that licensed insurer or licensed reinsurer,
 - (v) risk tolerance of that insurer or reinsurer; and
- (b) a written reinsurance procedure for the implementation of the reinsurance strategy of that licensed insurer.

(2) The Board of a licensed insurer or licensed reinsurer shall set or approve a reinsurance plan for each financial year consistent with the reinsurance or retrocession strategy.

(3) The reinsurance or retrocession strategy, procedures and reinsurance plans shall comply with directives.

(4) A licensed insurer or licensed reinsurer who contravenes subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Restrictions on the placement of reinsurance by licensed insurers

73. (1) Subject to subsection (2), a licensed insurer shall not, without the prior written authorisation of the Commission under subsection (3), enter into a reinsurance contract, other than

- (a) with a licensed reinsurer;
- (b) in accordance with arrangements, as may be specified in the directives which may include facultative reinsurance with a licensed insurer;
- (c) with a qualifying foreign reinsurer;
- (d) in accordance with the arrangements, as may be specified in the directives which may include reinsurance arrangements with underwriters that are members of a recognised association of underwriters.

(2) The Commission may, on the application of a licensed insurer, authorise that insurer to enter into a reinsurance contract as cedant with

- (a) a foreign reinsurer, or
- (b) an underwriter that is a member of a recognised association of underwriters.

(3) A licensed insurer who contravenes subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Governance and Management

Governance framework

74. (1) A licensed insurer or a licensed reinsurer shall establish and maintain a governance framework that provides for

- (a) a clear and appropriate apportionment of significant responsibilities between the directors, senior managers and key persons in control functions to clarify the responsibilities of each person;
- (b) separation of the oversight function from the management responsibilities; and
- (c) adequate monitoring and control of the business and affairs of that licensed insurer or licensed reinsurer by the directors and senior managers.

(2) A licensed insurer or a licensed reinsurer shall

- (a) establish and maintain
 - (i) the strategies, policies, procedures and controls, including internal controls, as are appropriate for the nature, scale and complexity of the business and risk profile of that licensed insurer or licensed reinsurer; and
 - (ii) internal policies, procedures and controls to prevent money laundering and financing of terrorism; and
- (b) ensure that the policies, procedures and controls of that licensed insurer or licensed reinsurer are regularly reviewed and updated as required.

(3) The procedures and controls established and maintained by a licensed insurer or a licensed reinsurer under subsection (1) shall

- (a) provide for

- (i) the prudent management of the business of that licensed insurer or licensed reinsurer in accordance with sound insurance principles; and
 - (ii) the effective oversight of the senior managers of that licensed insurer or licensed reinsurer and key persons in control functions;
- (b) recognise and protect the interests of policyholders of that licensed insurer or licensed reinsurer; and
- (c) take into account
- (i) the nature, scale, complexity and diversity of the business of that licensed insurer or licensed reinsurer; and
 - (ii) the degree of risk associated with each area of the business of that licensed insurer or licensed reinsurer.

(4) Without limiting subsections (1) and (2), a licensed insurer or a licensed reinsurer shall establish and maintain the policies, procedures and controls that are specified in the directives.

(5) A licensed insurer or a licensed reinsurer shall maintain an up to date written record of the governance framework of that licensed insurer or licensed reinsurer to include

- (a) details of reporting lines; and
- (b) the responsibilities of different members of senior management.

(6) A licensed insurer or a licensed reinsurer who contravenes subsection (1), (2), (4) or (5) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Directors of insurers and reinsurers

75. (1) A licensed insurer or a licensed reinsurer shall have an adequate number of directors who

- (a) are capable of exercising independent judgment;
- (b) have sufficient knowledge, skills, experience and understanding of the
 - (i) business of that licensed insurer or licensed reinsurer, and
 - (ii) the risk to which that licensed insurer or licensed reinsurer is exposed, and

(c) have sufficient time and commitment to undertake the duties of a director diligently in order to ensure that the board of that licensed insurer or licensed reinsurer carries out the duties of the board.

(2) A licensed insurer or a licensed reinsurer shall ensure that the directors of that licensed insurer or licensed reinsurer have sufficient powers to

- (a) obtain, in a timely manner, information required for the effective performance of the functions of the directors; and
- (b) assess senior managers, key persons in control functions and any other relevant persons.

(3) The board of a licensed insurer or a licensed reinsurer has ultimate responsibility for

- (a) the business and affairs of the licensed insurer or licensed reinsurer; and
- (b) ensuring the effective organisation of the licensed insurer or licensed reinsurer.

(4) A licensed insurer or a licensed reinsurer who contravenes subsection (1) or (2) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Senior management

76. The senior management of a licensed insurer or a licensed reinsurer shall

- (a) oversee the operations of the licensed insurer or licensed reinsurer;
- (b) provide directions on a day-to-day basis in accordance with the strategy and policies established by the Board;
- (c) provide the board with recommendations, for the review and approval of the senior management, on the strategy, business plans and significant policies of that licensed insurer or licensed reinsurer;
- (d) provide the board with timely and accurate information, including financial information, that is adequate to enable the board to carry out the duties of the board including holding the senior management to account; and
- (e) promote a culture of
 - (i) sound risk management;

- (ii) compliance with directives; and
- (iii) fair treatment of policyholders and potential policyholders.

Control functions

77. (1) A licensed insurer or a licensed reinsurer shall establish and maintain the following control functions:

- (a) a risk management function;
 - (b) a compliance function;
 - (c) an actuarial function;
 - (d) an internal audit function; and
 - (e) any other functions as may be specified in the directives or as the insurer or reinsurer considers appropriate for the nature, scale, complexity and diversity of the insurance business of that licensed insurer or licensed reinsurer.
- (2) A licensed insurer or a licensed reinsurer shall ensure that
- (a) a control function is provided with the authority, independence and resources required to enable the control function to operate effectively; and
 - (b) an individual is appointed
 - (i) to undertake the responsibilities of each control function; or
 - (ii) if the responsibilities of the control function are to be undertaken by more than one employee or to be outsourced, to have overall responsibility for, and oversight of, the control function.

(3) A licensed insurer or a licensed reinsurer shall not outsource a control function unless the outsourcing is permitted under a directive.

(4) A licensed insurer or a licensed reinsurer who contravenes subsection (1), (2) or (3) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Risk management

78. (1) A licensed insurer or a licensed reinsurer shall establish and maintain

- (a) a clearly defined strategy and policy for the effective management of significant risks to which that licensed insurer or licensed reinsurer is or may be exposed;
- (b) risk management procedures where a customer is permitted to use the business relationship before verification;

- (c) appropriate policies and internal risk assessment for new technologies and non-face-to-face products and distribution; and
 - (d) procedures and controls that are sufficient to ensure that the risk management strategy and policies are effectively implemented.
- (2) The risk management strategy and policies shall
- (a) be appropriate for the nature, scale, complexity and diversity of the licensed insurance or reinsurance business;
 - (b) specify how risks are to be identified, monitored, managed and reported on in a timely manner;
 - (c) take into account the probability, potential impact and the time duration of risk;
 - (d) provide for the effective identification and management of the following risks:
 - (i) insurance risk;
 - (ii) credit risk;
 - (iii) liquidity risk;
 - (iv) market risk;
 - (v) operational risk;
 - (vi) related party risk; and
 - (vii) any other risks specified in the directive;
 - (e) develop and implement an internal risk assessment framework; and
 - (f) comply with any other requirements in relation to risk management as may be specified in the directives.
- (3) Without limiting paragraph (f) of subsection (2), the directives may
- (a) specify the types or descriptions of micro life insurance contract that a short term licensed insurer may enter into;
 - (b) specify the types or descriptions of short term micro insurance contract that a life insurer may enter into;
 - (c) specify activities that a contact office may undertake;
 - (d) specify requirements in relation to the reinsurance strategy, procedures and plans to be established and maintained by licensed insurers;
 - (e) specify retrocession arrangements to be established and maintained by licensed reinsurers;

- (f) include requirements for the mandatory reinsurance of risks;
- (g) include restrictions on the reinsurance of risks with foreign reinsurers; and
- (h) provide for alternative risk transfer arrangements.

(4) A licensed insurer or a licensed reinsurer who contravenes subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Appointed Actuary

Appointment of appointed actuary

79. (1) Subject to subsection (3), a licensed insurer or a licensed reinsurer shall appoint an appointed actuary who may be

- (a) an external actuary; or
- (b) an employee of the licensed insurer or licensed reinsurer, provided that the employee meets the criteria for a qualified actuary specified in the directives.

(2) Despite subsection (1), the directives issued by the Commission may exempt a licensed insurer or licensed reinsurer from the requirement to appoint an appointed actuary.

(3) A licensed insurer or a licensed reinsurer shall not appoint a person as the appointed actuary of that licensed insurer or licensed reinsurer unless

- (a) that person has consented in writing to be appointed as the appointed actuary of the licensed insurer or the licensed reinsurer;
- (b) the licensed insurer or licensed reinsurer has complied with subsection (5); and
- (c) the Commission has given prior written approval for the appointment of that person as the appointed actuary of the licensed insurer or licensed reinsurer under section 80.

(4) A licensed insurer or a licensed reinsurer shall not appoint a person as the appointed actuary of that licensed insurer or licensed reinsurer unless the board of the insurer or reinsurer determines that that person does not

- (a) have an interest, or
- (b) hold any position, whether in or outside the licensed insurer or licensed reinsurer

that may conflict with the functions or duties of the appointed actuary.

(5) A licensed insurer or a licensed reinsurer shall

- (a) require the appointed actuary to advise that licensed insurer or licensed reinsurer of any potential conflict that may arise during the tenure of that person as an appointed actuary; and
- (b) further to an appointment as an appointed actuary, disclose in writing, any conflict of interest that may arise on or after the appointment of the person as appointed actuary.

(6) Where a licensed insurer or a licensed reinsurer appoints an employee of that licensed insurer or licensed reinsurer as an appointed actuary, that employee shall, for purposes of this Act, be regarded as the key person of the actuarial function.

(7) A person shall cease to operate as the appointed actuary of a licensed insurer or a licensed reinsurer where

- (a) the person resigns as an appointed actuary or dies;
- (b) the board of the insurer or reinsurer terminates the appointment of the person as an appointed actuary;
- (c) the tenure of office of the person as an appointed actuary expires; or
- (d) any circumstance arises such that if the person were not an appointed actuary, would cause the person to be disqualified or ineligible for appointment as an appointed actuary.

(8) Where a person ceases to operate as the appointed actuary of a licensed insurer or licensed reinsurer under subsection (7), the licensed insurer or licensed reinsurer shall, within two months of the date on which the former appointed actuary ceased to act, appoint another person as the appointed actuary.

(9) A licensed insurer or a licensed reinsurer who contravenes subsection (3), (4) or (8) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Approval of appointed actuary

80. (1) The Commission shall not grant approval for the appointment of an appointed actuary of a licensed insurer or a licensed reinsurer unless the Commission is satisfied that the person

- (a) possesses the requisite qualification to act as an appointed actuary;
- (b) has sufficient experience as an appointed actuary; and
- (c) is competent to act as the appointed actuary of the licensed insurer or licensed reinsurer.

(2) The Commission may refuse to approve the appointment of a person as an external actuary of a licensed insurer or a licensed reinsurer where the Commission is not satisfied that adequate arrangements have been made, in accordance with the directives, for training the actuarial staff of that licensed insurer or licensed reinsurer.

Notice to Commission

81. (1) A licensed insurer or a licensed reinsurer shall, within fourteen days from the date of

- (a) appointment of an appointed actuary,
- (b) expiry of tenure of office of an appointed actuary, or
- (c) cessation of office of an appointed actuary

notify the Commission in writing of that date.

(2) A notification given to the Commission under paragraph (c) of subsection (1) shall include the reasons for the appointed actuary ceasing to hold office.

(3) A licensed insurer or a licensed reinsurer who contravenes subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Actuarial investigation and financial condition report

82. (1) Except as provided in the directives, a licensed insurer or a licensed reinsurer shall ensure that the appointed actuary of that licensed insurer or licensed reinsurer

- (a) undertakes an actuarial review of the business of the licensed insurer or licensed reinsurer, within the year to which the report relates and where required by the Commission, a group actuarial review, in respect of each financial year; and
- (b) prepares a written financial condition report within the period specified in the relevant directives, guidelines and Regulations for submission to the Commission in accordance with section 155.

(2) A licensed insurer or a licensed reinsurer shall grant an appointed actuary access to the documents and information required to enable the appointed actuary

- (a) carry out an actuarial investigation; and
- (b) prepare a financial condition report.

(3) An appointed actuary may require a director or an employee of the licensed insurer or licensed reinsurer to provide the appointed actuary with information or documentation that is in the possession or

under the control of that director or employee, and explanations, that the appointed actuary considers necessary to facilitate the

- (a) actuarial investigation; and
- (b) preparation of the financial condition report.

(4) A licensed insurer or a licensed reinsurer who contravenes subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Reporting obligations of an appointed actuary

83. (1) Despite any other enactment, the appointed actuary of a licensed insurer or a licensed reinsurer shall report immediately to the Commission any information, relating to the affairs of that licensed insurer or licensed reinsurer, obtained by the appointed actuary in the course of the performance of the functions or discharge of duties under this Act that in the opinion of the appointed actuary suggests that

- (a) the business of the licensed insurer or licensed reinsurer is not in a financially sound condition;
- (b) the licensed insurer or licensed reinsurer does not meet, or is not likely to meet the solvency control level specified in the directives within three years after the information is brought to the attention of the appointed actuary;
- (c) the licensed insurer or licensed reinsurer is in breach of
 - (i) the stated capital or the capital adequacy requirements under this Act; or
 - (ii) any prudential requirements specified in the directives; and
- (d) the licensed insurer or licensed reinsurer has exposures that jeopardise the long term financial viability or stability of the licensed insurer or licensed reinsurer.

(2) Where the appointment of an appointed actuary is terminated by the licensed insurer or licensed reinsurer or the appointed actuary resigns from office, that appointed actuary shall

- (a) immediately inform the Commission of the termination of the appointment or the resignation, in writing, and disclose to the Commission, the circumstances which gave rise to the termination or the resignation; and
- (b) where, but for the termination of the appointment or the resignation, the person would have reported the

information to the Commission under subsection (1), the person shall report on the information concerned to the Commission, irrespective of the termination or resignation.

(3) The Commission may require the appointed actuary of a licensed insurer or a licensed reinsurer to discuss an actuarial investigation conducted or commenced by that appointed actuary or provide additional information on the actuarial investigation to the Commission.

(4) Where, in good faith, an appointed actuary of a licensed insurer or a licensed reinsurer provides information to the Commission under subsection (1) or subsection (2)

(a) that appointed actuary is not liable for a contravention of any relevant enactment, agreement, regulatory or administrative requirement, or professional code of conduct to which that person is subject; and

(b) a civil, criminal or disciplinary proceeding shall not lie against that appointed actuary.

(5) The failure of an appointed actuary to submit a report or other information to the Commission under subsection (1) or (2) does not confer on any other person a right of action against the appointed actuary, which but for the failure, that other person would not have had.

(6) The appointed actuary of a licensed insurer or licensed reinsurer shall not inform the licensed insurer or licensed reinsurer of the intention of that appointed actuary to report on a matter under this section, if the appointed actuary is of the opinion that the information given may be detrimental to the interest of the customers of the licensed insurer or licensed reinsurer.

(7) Subject to subsection (6), the appointed actuary of a licensed insurer or a licensed reinsurer shall, before submitting a report or other information under this section to the Commission, take reasonable steps to inform the licensed insurer or licensed reinsurer of the intention to submit the report or other information and the nature of the report.

(8) A person who fails to comply with subsection (1) or (2) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Conduct of Business

Obligations for conduct of business

84. (1) A licensed insurer or a licensed reinsurer shall

- (a) conduct the business of that licensed insurer or licensed reinsurer with
 - (i) integrity;
 - (ii) optimum skill;
 - (iii) due diligence; and
 - (iv) care;
- (b) observe good conduct of business standards and practices; and
- (c) in accordance with the arrangements, as may be specified in the directives, develop and implement internal policies, procedures and controls to prevent money laundering and financing of terrorism.

(2) A licensed insurer or a licensed reinsurer shall not seek to exclude, restrict or rely on any exclusion or restriction of any obligation or liability which that licensed insurer or licensed reinsurer may have towards a customer arising out of a regulatory, legal or contractual obligation.

(3) A licensed insurer or a licensed reinsurer who contravenes subsection (1) or (2) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Transfers and Mergers

Restriction on transfers and mergers

85. (1) Subject to section 90, a licensed insurer or a licensed reinsurer shall not

- (a) transfer the insurance business, or any part of the insurance business, to another person;
- (b) accept a transfer of the insurance business of another person, or any part of that insurance business; or
- (c) merge the insurance business, or any part of the insurance business, with the business of another person

without the prior written approval of the Commission.

- (2) A scheme of transfer or merger shall
- (a) set out the terms of the agreement or deed under which the proposed transfer or merger is to be carried out;
 - (b) set out the particulars of other arrangements that are necessary to give effect to the scheme;
 - (c) contain any other information specified in the directives issued by the Commission; and
 - (d) otherwise comply with the requirements set out in the directives issued by the Commission in relation to a scheme of transfer and merger.

(3) A licensed insurer or a licensed reinsurer who contravenes subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

- (4) For the purpose of sections 85 to 90,
“merger” means the joining of a licensed insurer or licensed reinsurer with another company or body corporate that results in

- (a) absorption by which the undertaking, property and liabilities of one or more companies, including the company in respect of which a scheme of merger is proposed, are to be transferred to another existing company; or
- (b) the formation of a new body corporate by which the undertaking, property and liabilities of two or more companies, including the company in respect of which the scheme of merger is proposed, are to be transferred to a new company and the consideration envisaged for the transfer is shares in the transferee company receivable by a member of the transferor company with or without any cash payment to that member;

“transfer” includes an assignment; and

“transferee” means

- (a) the person to whom all or part of the insurance business of the licensed insurer or the licensed reinsurer is proposed to be transferred under paragraph (a) of subsection (1); or

- (b) the licensed insurer or licensed reinsurer under paragraph (b) of subsection (1); and
- “transferor” means a licensed insurer or a licensed reinsurer that transfers, or proposes to transfer, the insurance business or any part of the insurance business, to another person.

Application for approval of scheme of transfer or merger

86. (1) An application to the Commission for the approval of a scheme of transfer or merger shall be made jointly by the licensed insurer or the licensed reinsurer or on behalf of the licensed insurer or licensed reinsurer and other parties to the scheme.

(2) An application under subsection (1) shall

- (a) be in the form as provided on the website of the Commission;
- (b) contain the information specified in the directives and any other relevant information;
- (c) be accompanied by the document specified in the directives; and
- (d) be accompanied by any other relevant document.

(3) Where the Commission considers that the mode of advertisement and the mode of provision of notice of an application for approval of a scheme specified in the directives are insufficient, the Commission may direct another mode of advertisement and mode of provision of notice as an alternative to the mode specified in the guidelines issued by the Commission.

(4) Before determining an application under this section, the Commission may

- (a) at the cost of the licensed insurer or the licensed reinsurer, undertake an investigation into the desirability or otherwise of the scheme; and
- (b) require the licensed insurer or licensed reinsurer and each party to the scheme to provide the Commission with the documents and information that the Commission may determine in accordance with the guidelines issued by the Commission for that purpose.

(5) An investigation under subsection (4) may be carried out by the Commission or by a person appointed by the Commission.

(6) A transaction to which a licensed insurer or a licensed reinsurer is a party, which has the effect of

(a) transferring a part of the business of the licensed insurer or licensed reinsurer to another person; or

(b) merging any part of the business of the licensed insurer or licensed reinsurer with the business of another person,

is void unless effected under a scheme of transfer or merger approved by the Commission.

Hearing of application for approval of scheme of transfer or merger

87. (1) The Commission may conduct a hearing in respect of an application for the approval of a scheme under section 86 at which

(a) the licensed insurer or licensed reinsurer,

(b) each party to the scheme, and

(c) any interested person who has made representations to the Commission concerning the scheme

is entitled to attend and give evidence in person or in the case of a company, through an officer of the company, or a legal representative.

(2) The Commission may, at a hearing conducted under subsection (1), consider evidence relevant to the determination of the application.

Determination of an application

88. (1) The Commission may, on an application for approval of a scheme of transfer or merger

(a) consider the document, information and relevant evidence, where necessary; and

(b) approve or refuse an application for approval of a scheme of transfer or merger, subject to the terms and conditions that the Commission considers appropriate.

(2) Where the application is approved the Commission shall communicate, in writing, the decision to

(a) the licensed insurer or licensed reinsurer,

(b) each party to the scheme, and

(c) any interested person

within twenty-eight days of taking the decision and publish the decision in the *Gazette*, a daily newspaper of national circulation and on the website of the Commission.

(3) Where the Commission refuses an application for approval of a scheme of transfer or merger, the Commission shall disclose in writing the reasons for refusal of the application.

(4) Where a scheme of transfer or merger is approved by the Commission, the transferee licensed insurer or transferee licensed reinsurer or the merged licensed insurer or merged licensed reinsurer shall, within ten days from the date of completion of the transfer or merger, submit to the Commission certified copies of

- (a) statements of the respective assets and liabilities of each party to the scheme; and
- (b) the documents under which the transfer or merger was effected.

Effect of approval of scheme

89. (1) Where the Commission approves a scheme of transfer or merger, the scheme

- (a) is binding on all parties to the scheme; and
- (b) has effect, despite anything to the contrary in the constitution of the licensed insurer or licensed reinsurer or of any company that is a party to the scheme.

(2) Where, for the purpose of a transfer under an approved scheme, the transferee accepts an assignment of liabilities from the transferor, the following are deemed to have occurred:

- (a) contracts of insurance in respect of which liability is accepted by the transferee are deemed to have been transferred by novation from the transferor to the transferee;
- (b) an insurance policyholder under a transferring contract is deemed to have the same rights against the transferee as that insurance policyholder would have had against the transferee had the contract of insurance of that policyholder been transferred by novation to the transferee; and

(c) the rights of the transferee against any other policyholders under a transferring contract are the same had the transferring contract been transferred by novation to the transferee from the transferor.

(3) An agreement between the transferee and the transferor may, with the approval of the Commission, assign liabilities in respect of the transferring contract, and that agreement is binding on

(a) the transferee,

(b) the transferor, and

(c) policyholders under the contract of insurance.

Application of the Companies Act, 2019 (Act 992)

90. (1) A licensed insurer or a licensed reinsurer may effect an arrangement or merger in accordance with the Companies Act, 2019 (Act 992).

(2) A licensed insurer or a licensed reinsurer shall not pass a special resolution in accordance with the Companies Act, 2019 (Act 992) which may put the company into voluntary liquidation by members for the purpose of an arrangement or merger without the prior written approval of the Commission in respect of that special resolution.

(3) A special resolution passed by a licensed insurer or a licensed reinsurer under the Companies Act, 2019 (Act 992) without the prior written approval of the Commission is void.

(4) An arrangement or merger effected by a licensed insurer or a licensed reinsurer under the Companies Act, 2019 (Act 992) is void unless approved by the Court.

(5) The Commission may appear and be heard at each Court hearing in respect of an arrangement or merger effected by a licensed insurer or a licensed reinsurer under the Companies Act, 2019 (Act 992).

Liquidation and Statutory Management of Licensed Insurers and Licensed Reinsurers

Winding up by private liquidation

91. (1) A licensed insurer or a licensed reinsurer shall not be wound up by a private liquidation under the Companies Act, 2019 (Act 992) without the prior written approval of the Commission.

(2) A resolution of a licensed insurer or a licensed reinsurer to be wound up by a private liquidation under the Companies Act, 2019 (Act 992) without the prior written approval of the Commission is void.

Application of Corporate Insolvency and Restructuring Act, 2020 (Act 1015)

92. The provisions of the Corporate Insolvency and Restructuring Act, 2020 (Act 1015) relating to the official liquidation of companies shall, with the necessary modification, apply to a

- (a) licensed insurer,
- (b) licensed reinsurer, and
- (c) company that carries on or has carried on unlicensed insurance business

to the extent specified in sections 93 to 108.

Commencement of proceedings

93. (1) The official winding up of a licensed insurer or a licensed reinsurer shall commence with a petition to the Court.

(2) A special resolution passed by a licensed insurer or a licensed reinsurer to appoint a liquidator for the purpose of official winding up is void.

Petition for liquidation by Commission

94. (1) The Commission may present a petition to the Court in accordance with the Corporate Insolvency and Restructuring Act, 2020 (Act 1015) for the official liquidation of a

- (a) licensed insurer,
- (b) licensed reinsurer, or
- (c) company that is carrying on or that has carried on unlicensed insurance business.

(2) On a petition presented to the Court under subsection (1), the Court may make an order for the official liquidation of the company

- (a) on any ground specified in the Corporate Insolvency and Restructuring Act, 2020 (Act 1015);
- (b) where the Court is satisfied that the winding up of the company is in the public interest; or
- (c) in the case of a licensed insurer or a licensed reinsurer, where the Commission is entitled to take enforcement action under this Act.

- (3) On the hearing of a petition for the official liquidation of a
- (a) licensed insurer,
 - (b) licensed reinsurer, or
 - (c) company carrying on or that has carried on unlicensed insurance business,

any evidence that the company has been insolvent, at any time before the date of the presentation of the petition unless the contrary is proved, is prima facie evidence that the company continues to be insolvent.

(4) For the purpose of paragraph (b) of subsection (2), “public interest” includes the interest of the customer of the licensed insurer or the licensed reinsurer.

Service on Commission

95. A petition for the official liquidation of a company shall, where presented by a person other than the Commission, be served on the Commission and the Commission is entitled to

- (a) appear in Court; and
- (b) be heard

at the hearing of the petition.

Reduction of contracts as alternative to official liquidation

96. Where, on the hearing of a petition for the official liquidation of a licensed insurer or a licensed reinsurer under section 94, the Court is satisfied that the licensed insurer or licensed reinsurer is insolvent, the Court may, instead of making an official winding up order, reduce the amount of the insurance contracts on conditions that the Court considers just.

Continuation of long term business by liquidator

97. (1) The liquidator of a long term licensed insurer shall, unless the Court otherwise orders, carry on the long term business of the licensed insurer, with a view to the business being transferred as a going concern to another licensed insurer, whether the other licensed insurer is in existence or is yet to be incorporated for the purpose.

(2) The liquidator may, in carrying on the long term business of the licensed insurer under subsection (1), agree to the variation of any contract of insurance at the commencement of the official liquidation, except that the licensed insurer shall not effect any new contract of insurance.

(3) On the application of the liquidator of a long term licensed insurer, the Court may, by order, reduce the amounts of the insurance contracts made by the licensed insurer in the course of carrying on the long term business of the licensed insurer.

(4) The Court may make an order under subsection (3) on the conditions that the Court considers appropriate.

(5) The liquidator of a long term licensed insurer may

- (a) appoint an appointed actuary to investigate and report to the licensed insurer on the business of the licensed insurer;
- (b) where appropriate, require the appointed actuary to conduct an actuarial review of the business of the licensed insurer; and
- (c) apply to the Court for the appointment of a special manager to manage the business of the licensed insurer.

(6) A special manager appointed by the Court

- (a) shall act in accordance with the directives issued to that special manager by the Court;
- (b) shall account for the actions of that special manager in the manner that the Court may direct; and
- (c) is entitled to be paid the remuneration as may be determined by the Court.

Insurance liabilities to have priority

98. (1) Despite the Corporate Insolvency and Restructuring Act, 2020 (Act 1015), on the official liquidation of a company that is currently or was previously a licensed insurer or a licensed reinsurer, the assets of the company, after payment of the properly incurred costs and expenses of the liquidation, are applicable, in priority to all other claims, in satisfying the liabilities of the company under an insurance contract.

(2) Where the Court makes an order under the Corporate Insolvency and Restructuring Act, 2020 (Act 1015), in respect of a licensed insurer or a licensed reinsurer, which requires a person

- (a) to repay, restore or account for money or other assets to the licensed insurer or licensed reinsurer;

(b) to pay compensation to the licensed insurer or licensed reinsurer; or

(c) to pay interest to the licensed insurer or licensed reinsurer, the Court shall order that the money, assets, interest or compensation is treated for the purposes of subsection (1), as an asset of the licensed insurer or licensed reinsurer.

(3) Where the value of the asset referred to in subsections (1) and (2) exceed the amount of liabilities of the licensed insurer or licensed reinsurer under the insurance contracts of the licensed insurer or licensed reinsurer, the excess constitutes an asset, available for distribution in accordance with the Corporate Insolvency and Restructuring Act, 2020 (Act 1015).

Statutory Management

Statutory management of a licensed insurer or a licensed reinsurer

99. (1) The Commission may appoint any qualified and experienced person as the statutory manager of a licensed insurer or a licensed reinsurer, if the Commission is

(a) satisfied on reasonable grounds that any of the circumstances specified in paragraphs (a) to (d) of subsection (1) of section 167 apply; and

(b) of the opinion that the appointment of a statutory manager is required to

(i) prevent or limit the risk that the failure of the licensed insurer or licensed reinsurer will cause to the financial system of the country or to the insurance industry;

(ii) prevent or limit the risk of the further financial distress of the licensed insurer or licensed reinsurer;

(iii) protect policyholders or enable a better outcome for policyholders;

(iv) enable the licensed insurer or licensed reinsurer to be rescued or restored as a going concern; or

(v) manage the affairs of the licensed insurer or licensed reinsurer, in a more orderly and expeditious manner rather than the licensed insurer or licensed reinsurer

being wound up, without being subject to statutory management.

(2) The appointment of a statutory manager shall be in writing and shall specify the

- (a) date and time on which the appointment takes effect;
- (b) reasons for the appointment;
- (c) terms and conditions for the appointment; and
- (d) date by which the statutory manager is required to submit to the Commission the report as specified in section 105.

(3) The Commission shall

- (a) within ten days, notify the licensed insurer or licensed reinsurer, in writing, of the appointment of the statutory manager, indicating the grounds for the appointment; and
- (b) publish the appointment of the statutory manager
 - (i) in the *Gazette*;
 - (ii) on the website of the Commission; and
 - (iii) in a daily newspaper of national circulation.

(4) During the period of statutory management, the statutory manager has control of, and shall manage, in whole or in part, the

- (a) business,
- (b) assets,
- (c) liabilities, and
- (d) affairs

of the licensed insurer or licensed reinsurer as the Commission shall determine.

Moratorium

100. (1) During the period of statutory management, a person shall not

- (a) take any steps to enforce any security over the assets of the licensed insurer or licensed reinsurer, including any assets subject to an equitable assignment in favour of the licensed insurer or licensed reinsurer;
- (b) take any steps to repossess the assets that are being used or occupied by or are in the possession of the licensed insurer or licensed reinsurer;
- (c) commence or continue proceedings, or any other legal process or execute a judgment against the licensed insurer

- or licensed reinsurer or levy distress against the assets of the licensed insurer or licensed reinsurer;
- (d) transfer any shares of the licensed insurer or licensed reinsurer;
 - (e) alter the status of the members of the licensed insurer or licensed reinsurer, whether by an amendment of the constitution or in any agreement of the shareholders or members or otherwise; or
 - (f) pass any resolution as a member of the licensed insurer or licensed reinsurer.
- (2) Subsection (1) does not
- (a) affect the existence of any security over the property of a licensed insurer or a licensed reinsurer under statutory management or the priority of the security over other debts;
 - (b) prevent a person from commencing or continuing an action or proceedings to determine whether a right or liability exists; or
 - (c) prevent a person from commencing or continuing an action or proceedings, or executing or enforcing a judgment, with respect to any contract entered into, or obligation incurred, by the licensed insurer or licensed reinsurer after the commencement of statutory management proceedings.

Qualification of statutory manager

101. The statutory manager shall

- (a) have relevant qualification and experience in the business that the licensed insurer or licensed reinsurer is engaged in; and
- (b) satisfy the fit and proper requirements.

Duties of statutory manager

102. (1) The statutory manager is responsible for

- (a) managing the business, assets and affairs of a licensed insurer or a licensed reinsurer or that part of the business, assets and affairs of a licensed insurer or a licensed reinsurer in respect of which the statutory manager is appointed;
- (b) taking into custody and control the assets of the licensed insurer or licensed reinsurer or, where the statutory manager

has been appointed in respect of only part of the business, those assets necessary to enable the statutory manager perform the function; and

- (c) carrying out such other duties as may be specified in the notice of appointment or subsequent notification by the Commission.

(2) A person who, immediately before the commencement of the statutory management, is vested with the management of the business of the licensed insurer or licensed reinsurer, or that part of the business in respect of which the statutory management order is made, is divested of that managerial function on the appointment of the statutory manager.

(3) The statutory manager shall

- (a) consult with the Commission, in the performance of functions under this section; and
- (b) comply with the direction issued by the Commission in relation to
 - (i) the duties and powers of the statutory manager; or
 - (ii) any matter that may arise in the course of the statutory management.

(4) The statutory manager shall provide the Commission with

- (a) any information that the Commission may require, at the times and in the form and manner as the Commission may direct; and
- (b) a notice, in writing, of any application made to the Court.

Powers of statutory manager

103. (1) Unless the Commission otherwise directs, the statutory manager of a licensed insurer or a licensed reinsurer has

- (a) the powers, rights, and privileges that the licensed insurer or licensed reinsurer has under any contract or otherwise;
- (b) the powers of the members in general meeting and of the board of directors of the licensed insurer or licensed reinsurer; and
- (c) the powers to act in respect of the specific instances provided for in subsection (2).

(2) For the purpose of paragraph (c) of subsection (1), the statutory manager has the powers

- (a) to institute or defend any legal proceedings in the name of the licensed insurer or licensed reinsurer;
- (b) to appoint a legal practitioner to assist the statutory manager in the performance of functions under this Act;

- (c) to appoint an actuary to assist the statutory manager in the performance of functions under this Act;
- (d) to sell or otherwise dispose of any of the property of the licensed insurer or licensed reinsurer;
- (e) to do all acts including to execute a deed, receipt or any other document in the name of or on behalf of the licensed insurer or licensed reinsurer;
- (f) to appoint an agent to perform a function that is impracticable for the statutory manager to perform in person or that the statutory manager may not reasonably be expected to perform;
- (g) with the prior written consent of the Commission,
 - (i) to carry on the business of the licensed insurer or licensed reinsurer and, where the business of the licensed insurer or licensed reinsurer is carried on, all the powers, rights and authorities necessary to carry on the business; and
 - (ii) to pay any creditor or class of creditors of the licensed insurer or licensed reinsurer in whole or in part, and to make any compromise or arrangements with any creditor or person claiming to be a creditor;
- (h) for the purpose of paragraph (e), to use the common seal of the licensed insurer or licensed reinsurer;
- (i) to prove in the bankruptcy of any debtor of the licensed insurer or licensed reinsurer or under any deed executed under the Insolvency Act, 2006 (Act 708);
- (j) to draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the licensed insurer or licensed reinsurer;
- (k) to obtain credit, whether on the security of the licensed insurer or licensed reinsurer or otherwise; and
- (l) to take letters of administration of the estate of a deceased debtor of the licensed insurer or licensed reinsurer and to take any other necessary steps to obtain payment of any moneys due from a debtor, or out of the estate of a deceased debtor.

(3) The statutory manager shall not enter into any insurance contract except with the written approval of the Commission.

(4) The statutory manager shall, in exercising the powers conferred by this section, be guided by the purpose for statutory management as provided for under paragraph (b) of subsection (1) of section 99.

Remuneration of charges and expenses of statutory manager

104. (1) The costs, charges, and expenses properly incurred by a statutory manager, including remuneration agreed on with the Commission, are payable out of the assets of the licensed insurer or licensed reinsurer in respect of which the statutory manager is appointed and shall

- (a) have priority over all other claims; and
 - (b) for all purposes be treated as a charge over the assets of the licensed insurer or licensed reinsurer.
- (2) The charge specified in paragraph (b) of subsection (1) shall
- (a) rank in priority to any floating charge to which the assets of the licensed insurer or licensed reinsurer may be subject; and
 - (b) continue to subsist after the termination of the statutory management.

Report of statutory manager

105. (1) The statutory manager shall, on or before the date specified by the Commission on making the appointment, or such different date as the Commission may subsequently direct in writing, submit to the Commission, a report covering the activities of the statutory manager in the performance of functions under this Act.

(2) The report shall make any one of the following recommendations:

- (a) the transfer of the business, or part of the business, of the licensed insurer or licensed reinsurer to some other licensed insurer or licensed reinsurer;
- (b) the carrying on of the business of the licensed insurer or licensed reinsurer, by the licensed insurer or the licensed reinsurer;

- (c) the official liquidation of the licensed insurer or licensed reinsurer; or
 - (d) any other course of action that the statutory manager considers appropriate.
- (3) The statutory manager
- (a) may recommend, in the report, different courses of action in respect of the different parts of the business of the licensed insurer or licensed reinsurer; and
 - (b) shall set out the reasons for any recommendations made in the report.

Indemnity of statutory manager

106. A statutory manager is not subject to any liability to any person in respect of any act done or omitted to be done, in good faith, in the exercise of powers and the discharge of duties under this Act or determined by the Commission.

Removal of statutory manager

107. The Commission may

- (a) remove the statutory manager appointed under section 99; and
- (b) appoint another person of relevant competence and experience as statutory manager to replace a statutory manager removed under paragraph (a).

Termination of statutory management

108. (1) The Commission may, by notice in writing, terminate the statutory management of a licensed insurer or licensed reinsurer where the Commission is satisfied that

- (a) the purpose of the statutory management has been fulfilled; and
- (b) for any other reason the continued statutory management of the licensed insurer or licensed reinsurer is undesirable.

(2) A notice terminating the statutory management of a licensed insurer or a licensed reinsurer shall specify the date and the time at which the termination takes effect.

(3) With effect from the time and date specified in the written notice of termination of a statutory management, the appointment of any person as the statutory manager of the licensed insurer or the licensed reinsurer terminates consequentially.

(4) The Commission shall

- (a) within ten days, give notice to the licensed insurer or licensed reinsurer of the termination of a statutory management; and
- (b) advertise the termination of a statutory management by publication in the *Gazette* and on the website of the Commission.

Licensing of Insurance Intermediaries

Prohibition of unlicensed business

109. (1) Subject to subsection (3)

- (a) a person shall not carry on or purport to carry on business as an insurance intermediary in the country; and
- (b) a body corporate that is incorporated under the Companies Act, 2019 (Act 992) shall not carry on or purport to carry on business as an insurance intermediary outside the country,

unless that person or body corporate holds an insurance intermediary licence issued by the Commission for that purpose.

(2) Without limiting subsection (1), a person

- (a) is considered to carry on business as an insurance intermediary in the country if that person
 - (i) by way of business as an insurance intermediary, occupies premises in the country; or
 - (ii) invites another person in the country or causes another person to be invited as a customer, through an advertisement or otherwise; and
- (b) purports to carry on business as an insurance intermediary where that person uses any name, style, designation, description, title or trade mark that represents or implies that that person is an insurance intermediary, whether or

not that person has been issued with a licence for that purpose.

(3) Subsection (1) does not apply to a person carrying on business as an innovative insurance intermediary in accordance with an exemption specified in the directives.

(4) A person who carries on business as an insurance intermediary contrary to subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Categories of insurance intermediary licence

110. (1) A licence to carry on an insurance intermediary business shall be in one of the following categories:

- (a) insurance broker;
- (b) reinsurance broker;
- (c) insurance agent;
- (d) bancassurance;
- (e) insurance loss adjuster;
- (f) insurance loss assessor;
- (g) technical service provider;
- (h) micro insurance agent;
- (i) insurance investigator;
- (j) innovative insurance intermediary;
- (k) insurance syndicate manager;
- (l) third-party cell captive provider; and
- (m) any other category as may be specified in the Regulations.

(2) A person applying for a licence as an insurance broker referred to in paragraph (a) of subsection (1) shall have at least seventy-five percent of the controlling interest in terms of shares, paid-up capital, interest or voting rights in a company held by a citizen of Ghana.

(3) The holder of a bancassurance licence under paragraph (d) of subsection (1) shall be regarded, for purposes of this Act, as a corporate insurance agent.

(4) The Commission shall grant an innovative insurance intermediary licence in a class equivalent to one of the categories specified in paragraph (a), (b), (c), (g) or (h) of subsection (1).

(5) The holder of an innovative insurance intermediary licence

shall carry on insurance intermediary business in accordance with

- (a) the provisions of this Act, the Regulations and any directives that apply to innovative insurance intermediary business; and
- (b) the terms and conditions of the licence that the Commission may specify.

Application for insurance intermediary licence

111. (1) Subject to subsection (1) of section 110, a company may apply to the Commission for an insurance intermediary licence in the category of

- (a) insurance broker, reinsurance broker, insurance loss adjuster, technical service provider; and
- (b) insurance agent, insurance loss assessor or micro insurance agent.

(2) An application under subsection (1) shall be in the form determined by the Commission and accompanied by the documents specified in the directives.

(3) An application for an insurance intermediary licence which falls within the category of

- (a) an insurance agent,
- (b) a micro insurance agent, or
- (c) bancassurance,

shall be submitted to the Commission by a licensed insurer with whom the applicant is or will be contracted as an agent.

Grant of insurance intermediary licence

112. (1) The Commission may approve an application for a licence specified in subsection (1) of section 110 where the Commission is satisfied that

- (a) the applicant has met the requirements of this Act, the Regulations and the directives with respect to the application;
- (b) the applicant is able to meet and maintain any applicable minimum capital requirement specified in the directives for the category of licence applied for;
- (c) the applicant for a licence specified in paragraph (a), (c) or (h) has met the requirements of subsection (2) of section 110;

- (d) the applicant has in place appropriate management structures, where the applicant is a company;
 - (e) where the applicant is a company, the significant owners, directors, senior managers and key persons in a control function of the applicant meet the fit and proper criteria of the Commission; and
 - (f) where the applicant is an individual, that individual meets the fit and proper criteria of the Commission.
- (2) The Commission may refuse to grant a licence to an applicant if the Commission has reasonable grounds to believe that
- (a) any person having an interest in the applicant does not satisfy the fit and proper requirements of the Commission; or
 - (b) issuing the licence is against the public interest.
- (3) The Commission shall, within four months after the date of receipt of an application for an insurance intermediary licence, take a decision on the application and inform the applicant within fourteen days of taking the decision.

Duration of insurance intermediary licence

113. (1) An insurance intermediary licence issued by the Commission is valid for twelve months from the date of issue and may, on application, be renewed.

(2) Where an application for renewal of an insurance intermediary licence is made on or before the period specified in paragraph (d) of subsection (2) of section 117 but is not determined by the Commission by the expiry date, the licence shall continue in force until the application for renewal is determined by the Commission.

Obligation in relation to commencement of business

114. (1) A licensed insurance intermediary shall notify the Commission, in writing, within fourteen days of the commencement of the insurance business of that licensed insurance intermediary.

(2) Where a licensed insurance intermediary does not commence the insurance business of that licensed insurance intermediary within six months of the date of the grant of the licence by the Commission, that

licensed insurance intermediary shall not subsequently commence the insurance business without the prior written approval of the Commission.

Restriction on issuance and use of licence

115. (1) The Commission may issue the following categories of licences only to a company:

- (a) insurance broker licence;
- (b) reinsurance broker licence;
- (c) insurance loss adjuster licence; and
- (d) technical service provider licence.

(2) A significant owner of a licensed insurance broker or licensed reinsurance broker shall not be

- (a) granted an insurance intermediary licence as an insurance agent or a micro insurance agent; or
- (b) appointed as a director of
 - (i) a licensed insurer or a licensed reinsurer; or
 - (ii) a company that holds an insurance intermediary licence in the categories of insurance agent, insurance loss assessor, insurance loss adjuster or micro insurance agent.

(3) A director, officer or employee of a licensed insurance broker or a licensed reinsurance broker shall not be appointed as a director of a licensed insurer or a licensed reinsurer.

(4) A director, officer, employee or significant owner of a licensed insurer or a licensed reinsurer shall not be appointed as a director, officer or employee of a licensed broker.

(5) A significant owner of a licensed insurer or a licensed reinsurer shall not be issued with an insurance broker licence or a reinsurance broker licence.

(6) A company which is issued with an insurance agent licence shall not hold an insurance broker licence or a reinsurance broker licence.

(7) A licensed insurance broker or a licensed reinsurance broker shall not be issued with an insurance agent licence.

(8) A company that is issued with an insurance loss adjuster licence shall not operate as an insurance broker, reinsurance broker or an insurance agent and be issued with the corresponding category of licences.

(9) A person who has been issued with an insurance intermediary licence shall not be a significant owner of a licensed insurer or a licensed reinsurer.

(10) A licensed insurer or a licensed reinsurer shall not have an interest in a company which has been issued with a licence as an insurance intermediary.

Notification and publication of decision of the Commission

116. (1) The Commission shall, within fourteen days of determining an application, notify the applicant of the decision of the Commission.

(2) Where the Commission

(a) refuses an application for a licence,

(b) grants an application for a licence but, in the case of an application for an insurance broker licence, a reinsurance broker licence or an insurance loss adjuster licence, refuses to authorise all the classes of insurance businesses specified in the application, or

(c) grants an application for a licence on the imposition of a condition that the Commission may determine,

the notice shall contain a statement of the reasons for the grant, refusal or imposition of the condition.

(3) Where the Commission notifies an applicant of the grant of a licence pursuant to subsection (1), the Commission shall, within fourteen days of notifying the applicant, publish the decision on the website of the Commission.

(4) Where the Commission has imposed conditions on the grant of the licence, the Commission shall publish the conditions imposed together with the publication of the grant of the licence unless the Commission considers that it would not be in the public interest to do so.

Application for renewal of insurance intermediary licence

117. (1) An insurance intermediary, other than an insurance agent, may apply to the Commission for the renewal of the licence of that insurance intermediary.

(2) An application under subsection (1) shall

(a) be in writing,

(b) contain the prescribed information and be in the prescribed form,

- (c) be accompanied with the prescribed document and renewal fee, and
- (d) be made not later than
 - (i) three months before the date of expiry of the licence, or
 - (ii) a later date the Commission permits.

(3) The Commission may require a licensed insurance intermediary to furnish the Commission with any other document and information as the Commission considers necessary to determine the application for renewal of a licence.

- (4) The Commission may, after the review of the application,
- (a) grant
 - (i) a licence, or
 - (ii) a licence with conditions, or
 - (b) refuse to grant a licence.

Renewal of insurance intermediary licence

118. (1) The Commission shall renew the licence of an insurance intermediary where the Commission is satisfied that the insurance intermediary

- (a) continues to meet the requirements for the issue of a licence; and
- (b) is in compliance with this Act and the Regulations.

(2) The renewal of a licence under this section is effective from the date when the licence renewed would have expired but for the renewal.

Change in insurer or insurance agent

119. (1) A licensed insurance agent shall not act as the insurance agent for an insurer unless the name of the insurer is stated on the insurance agent licence.

(2) Subject to the directives of the Commission, a licensed insurer may, at any time, apply to the Commission to

- (a) insert on the licence, the name of the licensed insurer of an insurance agent or a micro insurance agent of that licensed insurer, or
- (b) delete the name of the licensed insurer from the licence of an insurance agent or a micro insurance agent of that licensed insurer.

(3) An application under paragraph (a) of subsection (2) to insert the name of a licensed insurer on the licence of an insurance agent shall be accompanied by written confirmation from the licensed insurer concerned, to the effect that, on the amendment of the licence, the licensed insurer shall appoint the insurance agent as an agent of that licensed insurer.

(4) Where a licensed insurance agent ceases to act as the insurance agent for a licensed insurer, the licensed insurer shall, within fourteen days of the insurance agent ceasing to act, notify the Commission in writing.

Grounds for cancellation of insurance intermediary licence

120. The Commission may cancel an insurance intermediary licence where

- (a) the licensed insurance intermediary applies to the Commission in writing for the cancellation of the licence;
- (b) the licensed insurance intermediary does not commence the licensed insurance intermediary business within six months from the date of the grant of the licence;
- (c) the licensed insurance intermediary ceases to carry on the licensed business;
- (d) the Commission is entitled to take an enforcement action against the licensed insurance intermediary under this Act;
- (e) the application for the licence contains false or misleading information; or
- (f) in the case of a company, the licensed insurance intermediary has been wound up and dissolved.

Notice of cancellation of insurance intermediary licence

121.(1) The Commission shall, before cancelling an insurance intermediary licence under paragraph (b), (c), (d) or (e) of subsection (1) of section 120, give the licensed insurance intermediary a written notice of the intention to cancel the insurance intermediary licence, stating

- (a) the grounds on which the Commission intends to cancel the insurance intermediary licence; and
- (b) that unless the licensed insurance intermediary objects, in writing, to the cancellation, the insurance intermediary

licence shall be cancelled on a date not less than fourteen days after the date of the notice.

(2) The Commission shall consider any objection received under subsection (1) before deciding whether or not to cancel the insurance intermediary licence.

(3) Where the Commission decides to cancel an insurance intermediary licence after considering an objection raised by the licensed insurance intermediary, the Commission shall provide, in writing, the reasons for the cancellation of the insurance intermediary licence.

Changes in Significant Ownership and Level of Control

Approval required for change in significant ownership or level of control

122. (1) A person shall not, except with the prior written approval of the Commission, become a significant owner of a corporate insurance intermediary.

(2) Despite subsection (1), a person who is a significant owner of a corporate insurance intermediary shall not, except with the prior written approval of the Commission,

(a) significantly increase or reduce the level of control of that person over the corporate insurance intermediary, or

(b) cease to be a significant owner of the corporate insurance intermediary.

(3) A corporate insurance intermediary shall not cause, permit or acquiesce in any dealing with the shares of that corporate insurance intermediary that would result in a contravention of subsection (1) or (2).

(4) A person who contravenes subsection (1) or (2), is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

(5) A corporate insurance intermediary who contravenes subsection (3) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Application for approval under section 122

123. (1) An application to the Commission for approval under subsection (1) or (2) of section 122 shall be made by the corporate

insurance intermediary on behalf of the person who seeks to

- (a) become or cease to be the significant owner of a corporate insurance intermediary; or
- (b) significantly increase or reduce the level of control of that person over the corporate insurance intermediary.

(2) In determining whether to grant approval under section 122, the Commission may take into account any factors which the Commission considers relevant.

(3) Without limiting subsection (2), the Commission shall consider whether

- (a) a person becoming a significant owner, or significantly increasing the level of control of that person over the corporate insurance intermediary, satisfies the fit and proper criteria of the Commission;
- (b) following the change of significant ownership or level of control, the ownership structure of the corporate insurance intermediary will be appropriate having regard for the nature, scale, complexity and diversity of the licensed business of that corporate insurance intermediary; and
- (c) the change in significant ownership or level of control will, or is likely,
 - (i) in the case of a licensed broker, to adversely affect the financial capacity of the licensed broker;
 - (ii) in the case of any corporate insurance intermediary, to adversely affect the ability of the Commission to supervise the licensed insurance broker, licensed insurance agent, and licensed micro insurance agent or be prejudicial to the customers of the licensed insurance broker, licensed insurance agent and licensed micro insurance agent or preclude the licensed insurance broker, licensed insurance agent or licensed micro insurance agent from meeting the eligibility requirements to hold a licence under subsection (1) of section 110; or
 - (iii) to pose a significant systemic risk.

Power to require disposal of interest or prohibit exercise of rights

124. (1) The Commission may issue a direction under subsection (3) to

- (a) a person who becomes a significant owner in, or significantly increases the level of control of that person

over a corporate insurance intermediary, without obtaining the prior written approval of the Commission; and

- (b) a person who is a significant owner of a corporate insurance intermediary if the Commission has reasonable grounds to believe that
 - (i) that person does not satisfy the fit and proper criteria; or
 - (ii) by virtue of the significant ownership of that person in, or level of control over the insurance intermediary, any of the factors specified in subsection (2) apply.

(2) The factors referred to in subparagraph (ii) of paragraph (b) of subsection (1) are that the ownership structure of the insurance intermediary

- (a) is not appropriate having regard for the nature, scale, complexity and diversity of the licensed business of the insurance intermediary;
- (b) in the case of a licensed broker, adversely affects the financial soundness of the licensed broker;
- (c) in the case of any corporate insurance intermediary, adversely affects the ability of the Commission to supervise the insurance intermediary or is prejudicial to the customers of the insurance intermediary; or
- (d) poses a systemic risk.

(3) Where any of the circumstances specified in subsection (1) applies, the Commission may issue a direction in writing to the person

- (a) requiring that person to dispose of, in whole or in part, the interest of that person in the corporate insurance intermediary within the time period specified in the direction; or
- (b) prohibiting the person from exercising any rights, including voting rights, attached to the interest.

(4) Where the Commission issues a direction to a person under paragraph (a) of subsection (3), the Commission may direct that during the period before the disposal of the interest of that person, that person is prohibited from exercising any rights, including voting rights and rights to receive a distribution, that attach to the interest.

(5) Sections 122, 123 and 127 apply in relation to any disposal made in compliance with a direction issued under subsection (1).

(6) A person who, without reasonable excuse, fails to comply with a notice issued by the Commission under this section commits an offence and is liable on summary conviction to a fine or a term of imprisonment or to both as specified in the First Schedule.

Changes in Directors, Senior Managers and Key Persons in Control Functions

Approval required

125. (1) A corporate insurance intermediary shall not appoint a director, senior manager or, if applicable, key person in a control function except with the prior written approval of the Commission.

(2) The Commission shall not grant approval under subsection (1) unless the Commission is satisfied that

(a) the person to be appointed satisfies the fit and proper criteria; and

(b) following the appointment of the person, the management structure of the corporate insurance intermediary is appropriate having regard to the nature, scale, complexity and diversity of the licensed business of the corporate insurance intermediary.

(3) A corporate insurance intermediary shall, within fourteen days, provide written notice to the Commission after a director, senior manager or a key person in a control function is appointed by the corporate insurance intermediary or ceases to hold office with, be employed by or act for the insurance intermediary.

(4) The written notice under subsection (3) shall include a statement of the reason for appointment of the director, senior manager or a key person in a control function or a reason for the director, senior manager or a key person in a control function ceasing to hold office with, be employed by, or act for, the corporate insurance intermediary.

(5) A corporate insurance intermediary that contravenes subsection (1) or (3) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Power to require the removal of director, senior manager or key person in a control function

126. (1) Where the Commission has reasonable grounds to believe that a person specified in subsection (2) does not satisfy the fit and proper

criteria, the Commission may, by direction, in writing, require the corporate insurance intermediary to

- (a) remove that person from office and if the Commission considers it appropriate, to replace the person with another person acceptable to the Commission;
- (b) ensure that the person ceases to undertake certain specified functions in relation to the insurance intermediary; or
- (c) take such remedial action in relation to that person as the Commission may direct.

(2) For purposes of subsection (1), the following are specified persons:

- (a) a director; or
- (b) a senior manager; and
- (c) a key person in a control function.

(3) A direction issued under subsection (1)

- (a) shall state whether the specified requirements have immediate effect or the time period within which the specified requirements must be complied with;
- (b) may include directions consequential upon, or ancillary to, the requirements specified in the notice; and
- (c) may direct that, in the case of a person who the Commission has required the corporate insurance intermediary to remove from office, the person may not be reappointed, or accept reappointment, to the same position, or to any specified position, with the insurance intermediary
 - (i) at any time;
 - (ii) for a period specified by the Commission; or
 - (iii) until conditions specified by the Commission have been met.

(4) This section has effect despite any agreement, contract of employment, enactment or rule of law or any provision in the constitution of the corporate insurance intermediary.

(5) Where a direction issued under subsection (1) contains a matter specified under paragraph (c) of subsection (3), any person to whom the direction relates and who accepts an appointment contrary to the direction is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

(6) A corporate insurance intermediary that fails to comply with a direction issued under subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

*Information Material to Fit and Proper Assessment***Matters affecting the eligibility of the director, senior manager, significant owner, and key person in a control function**

127. (1) Where, before or after the Commission has approved

- (a) the appointment of a director, senior manager or key person in a control function of a corporate insurance intermediary, or
- (b) a significant owner of a corporate insurance intermediary, that corporate insurance intermediary becomes aware of any information that is reasonably material to the fit and proper assessment of the person by the Commission, the corporate insurance intermediary shall give notice of the information to the Commission as soon as practicable.

(2) A corporate insurance intermediary who contravenes subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

*Regulation and Supervision of Licensed Insurance Intermediaries***Maintenance of financially sound condition**

128. A corporate insurance intermediary shall maintain the business of that corporate insurance intermediary in a financially sound condition by

- (a) ensuring that the corporate insurance intermediary has assets,
- (b) providing for the liabilities of the corporate insurance intermediary, and
- (c) generally conducting the business of the corporate insurance intermediary

in a prudent manner to enable the corporate insurance intermediary meet the liabilities of the corporate insurance intermediary as and when the liabilities fall due.

Equity

129. (1) A licensed insurance broker, a licensed insurance loss adjuster or a licensed technical service provider shall ensure that the equity of that licensed insurance broker, licensed insurance loss adjuster or licensed technical service provider is equal to or exceeds

- (a) the minimum amount specified in the directives; or
- (b) the amount specified in a direction issued by the Commission under section 130.

(2) A licensed insurance broker, a licensed insurance loss adjuster or a licensed technical service provider that contravenes subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Direction of Commission in relation to capital resources

130. (1) Where the Commission considers it appropriate, having regard to the nature, scale, complexity and diversity of the licensed business carried on, or proposed to be carried on, by a licensed insurance broker, a licensed insurance loss adjuster or a licensed technical service provider, the Commission may issue a direction requiring the licensed insurance broker, licensed insurance loss adjuster or licensed technical service provider to increase the capital resources of that licensed insurance broker, licensed insurance loss adjuster or licensed technical service provider to an amount higher than the minimum specified in the directives.

(2) Unless the circumstances justify immediate compliance with a direction issued under subsection (1), the direction issued under subsection (1) shall specify a reasonable period for compliance.

(3) A licensed insurance broker, a licensed insurance loss adjuster or a licensed technical service provider that contravenes subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Notice of likely failure to comply

131. (1) A corporate insurance intermediary shall, as soon as practicable, give notice in writing to the Commission that the corporate insurance intermediary has reasonable grounds to believe that, at any time in the ensuing twelve months, that corporate insurance intermediary is likely to fail to comply with the requirements under section 128.

(2) A licensed insurance broker, a licensed insurance loss adjuster or a licensed technical service provider shall, as soon as practicable, notify the Commission, in writing, if that licensed insurance broker, licensed insurance loss adjuster or licensed technical service provider has reasonable grounds to believe that, at any time in the ensuing twelve months, that licensed insurance broker, licensed insurance loss adjuster or licensed technical service provider is likely to fail to comply with a requirement imposed under section 129.

(3) A corporate insurance intermediary that contravenes subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

(4) A licensed insurance broker, a licensed insurance loss adjuster or a licensed technical service provider who contravenes subsection (2) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Governance and Management

Governance framework

132. (1) A licensed insurance broker, a licensed insurance loss adjuster or a licensed technical service provider shall establish and maintain a governance framework that provides for

- (a) a clear and appropriate apportionment of responsibilities among the directors, senior managers and key persons in control functions;
- (b) separation of oversight function from the management responsibilities; and
- (c) adequate monitoring and control by the directors and senior management of the business and affairs of the licensed insurance broker, licensed insurance loss adjuster or licensed technical service provider.

(2) A licensed insurance broker, a licensed insurance loss adjuster or a licensed technical service provider shall

- (a) establish and maintain strategies, policies, procedures and controls, including internal controls, as are appropriate for the nature, scale, complexity and diversity of the business of the licensed insurance broker, licensed insurance loss adjuster or licensed technical service provider;
- (b) ensure that the policies, procedures and controls of the licensed insurance broker, licensed insurance loss adjuster or licensed technical service provider are regularly reviewed and updated as required; and
- (c) make and retain for the period specified in the directives, a record of compliance with this section.

(3) The directives shall

- (a) without limiting subsections (1) and (2), specify the policies, procedures and controls to be established and maintained by licensed insurance brokers, licensed insurance loss adjusters and licensed technical service providers; and
- (b) specify the governance requirements applicable to other types of licensed insurance intermediaries.

(4) A licensed insurance broker, a licensed insurance loss adjuster or a licensed technical service provider that contravenes subsection (1) or (2) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Directors of insurance intermediaries

133. (1) A licensed insurance broker, a licensed insurance loss adjuster or a licensed technical service provider shall have an adequate number of directors who, on appointment, and on an on-going basis

- (a) are fit and proper persons;
- (b) are capable of exercising independent judgment;
- (c) collectively, as a board, have sufficient knowledge, skills, experience and understanding of the business of the licensed insurance broker, the licensed insurance loss adjuster or the licensed technical service provider, and the risks involved in the business, to ensure that the board is able to fulfil the responsibilities of the board; and
- (d) have sufficient time and commitment to undertake the duties of a director diligently.

(2) A licensed insurance broker, a licensed insurance loss adjuster or a licensed technical service provider that contravenes subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Control function

134. (1) A corporate insurance intermediary shall establish and maintain the following control functions:

- (a) a compliance function; and
- (b) any other control function as may be specified in the directives; or
- (c) any other function appropriate for the nature, scale, complexity and diversity of the business of the corporate insurance intermediary.

(2) A corporate insurance intermediary shall not outsource a control function unless the outsourcing is permitted, in whole or in part, by the directives.

(3) A corporate insurance intermediary shall ensure that a control function is provided with the authority, independence and resources required to enable the control function operate effectively.

(4) A corporate insurance intermediary that contravenes subsection (1), (2) or (3) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Risk management

135. (1) A licensed insurance broker, a licensed insurance loss adjuster or a licensed technical service provider shall establish and maintain

- (a) a clearly defined strategy, for the effective management of all significant risks that the licensed insurance broker, licensed insurance loss adjuster or licensed technical service provider is or may be exposed to;
- (b) policies, if the directors consider it appropriate, for the effective management of all significant risks that the licensed insurance broker, licensed insurance loss adjuster or licensed technical service provider is or may be exposed to;
- (c) an internal risk assessment framework;
- (d) risk management procedures where a customer is permitted to use the business relationship prior to verification;
- (e) appropriate policies and internal risk assessment for new technologies and non-face-to-face products and distribution; and
- (f) procedures and controls that are sufficient to ensure that the risk management strategy and policies are effectively implemented.

(2) The risk management strategy and policies shall

- (a) be appropriate for the nature, scale, complexity and diversity of the business of the licensed insurance broker, licensed insurance loss adjuster or licensed technical service provider;
- (b) specify how risks are to be identified, monitored, managed and reported in a timely manner;
- (c) take into account the probability, potential impact and the time duration of risk; and
- (d) comply with other requirements specified in the directives.

(3) Without limiting subsections (1) and (2), the risk management strategy and policies shall provide for

- (a) operational risk; and
- (b) other risks specified in the directives.

(4) A licensed insurance broker, a licensed insurance loss adjuster or a licensed technical service provider that contravenes subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

*Other Obligations and Restrictions of Licensed Insurance Intermediary***General obligations in the conduct of business**

136. (1) A licensed insurance intermediary shall

- (a) conduct the business of that insurance intermediary with integrity, due skill, care and diligence;
- (b) observe good conduct of business standards and practices and be transparent in the business arrangements of that insurance intermediary;
- (c) have due regard for the interest of the customers and prospective customers of that insurance intermediary and treat customers and prospective customers fairly;
- (d) make adequate arrangements to protect the assets of the customers, over which that insurance intermediary exercises control;
- (e) manage conflict of interest fairly, whether the conflict arises between the insurance intermediary and the customers, or prospective customers or between different customers and prospective customers;
- (f) pay due regard to the information needs of customers and prospective customers of the licensed insurance intermediary;
- (g) take reasonable steps to ensure that information is communicated to customers and prospective customers in a manner that is
 - (i) clear, fair and accurate; and
 - (ii) not misleading;
- (h) ensure that customer information is adequately protected and used appropriately; and
- (i) in accordance with directives, develop and implement internal policies, procedures and controls to prevent money laundering and financing of terrorism.

(2) A licensed insurance intermediary that contravenes subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Prohibition against dealing with unlicensed insurer or unlicensed reinsurer

137. (1) A licensed insurance intermediary shall not act in relation to an insurance contract or reinsurance contract to be effected by or with an

insurer or reinsurer who does not hold a licence as an insurer or reinsurer unless that insurer or reinsurer falls within the exempted class of persons specified under subsection (1) of section 37.

(2) A licensed insurance intermediary that contravenes subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Directives to provide for receipt of and dealing with premiums and other insurance moneys

138. (1) Directives, issued by the Commission, shall specify requirements and provide for the receipt, holding and dealing with premiums and other moneys related to insurance transactions by a licensed insurance intermediary.

(2) A licensed insurance intermediary shall receive, hold or deal with premiums or other client moneys in accordance with the directives.

(3) A licensed insurance intermediary who contravenes subsection (2) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Receipt and holding of moneys by licensed insurance agent

139. (1) Where a licensed insurance agent receives any moneys, including a premium or part premium, payable under an insurance contract issued by an insurer by which the licensed insurance agent is appointed

(a) the licensed insurance agent is considered to have received the moneys as agent of the licensed insurer and holds the money in trust for the licensed insurer; and

(b) payment to the licensed insurance agent is, despite any agreement to the contrary, deemed to be payment to the licensed insurer.

(2) Where a licensed insurance agent receives any moneys from a licensed insurer by which the licensed insurance agent is appointed, which is intended to be paid to an insurance policyholder including a premium refund and money paid in relation to the settlement of a claim under an insurance contract,

(a) the licensed insurance agent is deemed to hold the moneys in trust for the licensed insurer; and

(b) payment of the money is considered not to have been received by the insurance policyholder or prospective

policyholder until the moneys have been paid to the insurance policyholder or prospective policyholder.

Receipt and holding of moneys by licensed insurance broker or licensed reinsurance broker

140. (1) A licensed insurance broker or licensed reinsurance broker shall not receive moneys

- (a) from or on behalf of an insurance policyholder or prospective policyholder for or on account of a licensed insurer or licensed reinsurer in connection with an insurance contract or proposed insurance contract, or
- (b) from or on behalf of a licensed insurer or a licensed reinsurer for or on account of a policyholder or prospective policyholder,

unless the receipt of the moneys is permitted in the directives.

(2) A licensed insurance broker or licensed reinsurance broker shall pay any insurance moneys that the licensed insurance broker or licensed reinsurance broker receives into a customer account established in accordance with the directives solely for the purpose of holding insurance money.

(3) A licensed insurance broker or a licensed reinsurance broker who contravenes subsection (1) or (2) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Professional indemnity insurance and other insurance

141. (1) A licensed insurance broker, a licensed reinsurance broker, a licensed insurance loss adjuster or a licensed technical service provider shall maintain the professional indemnity insurance and other insurance specified in the directives.

(2) A licensed insurance broker, a licensed reinsurance broker, a licensed insurance loss adjuster or a licensed technical service provider who contravenes subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Relationship between Licensed Insurers and Licensed Insurance Agents

Insurer not to appoint unlicensed insurance agents

142. (1) A licensed insurer shall not appoint a person as the insurance agent of that licensed insurer unless the person is licensed as an insurance agent.

(2) Subsection (1) does not apply in respect of the appointment by a licensed insurer of a person as an insurance agent for the licensed insurer if

- (a) the person appointed is non-resident in the country; and
- (b) the person is appointed to act as the agent of that licensed insurer solely outside the country.

(3) A licensed insurer who contravenes subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Insurance agent considered agent of insurer

143. (1) Despite anything to the contrary contained in an insurance contract, an insurance agent of a licensed insurer who completes a proposal form or a similar document on behalf of a person is considered to be the agent of the licensed insurer and not the agent of the person on whose behalf the agent completes the proposal form.

(2) Knowledge acquired by an insurance agent in the course of completing an insurance proposal form or a similar document under subsection (1), is considered to be knowledge acquired by the licensed insurer.

(3) Nothing contained in an insurance contract shall absolve the licensed insurer from liability in respect of knowledge obtained by an insurance agent of the licensed insurer under subsection (2).

Liability of licensed insurer for conduct of agent

144. (1) Subject to subsections (4) and (5), where a person is appointed as the agent of a single licensed insurer, the licensed insurer is responsible, as between the licensed insurer and the insured or prospective insured, for the conduct of the agent in relation to any matter relating to insurance, whether or not the agent acted within the scope of the authority granted by the licensed insurer.

(2) Subject to subsections (4) and (5), where a person is appointed as the agent of different licensed insurers for different classes of business and the person engages in conduct in relation to any matter relating to a particular class of insurance business, the licensed insurer that appointed the person as an agent for that class of insurance business is responsible for the conduct of the agent, as between the licensed insurer and the

insured or prospective insured, whether or not the agent has acted within the scope of the authority granted by the licensed insurer.

(3) This section applies whether the person appointed as an agent is a licensed insurance agent or, contrary to this Act, is an unlicensed insurance agent.

(4) This section applies to any conduct of an agent of a licensed insurer

(a) on which a person in the circumstances of the insured or prospective insured could reasonably be expected to rely; and

(b) on which the insured or prospective insured, relied in good faith.

(5) Where a licensed insurer is responsible for the conduct of an agent under subsection (1) or (2), the liability of the licensed insurer to an insured or prospective insured is in respect of any loss or damage suffered by the insured or prospective insured as a result of the conduct of the agent.

(6) This section does not limit or affect any liability of an agent of a licensed insurer to an insured or prospective insured.

Conduct of Business with Unlicensed Broker

Insurer or reinsurer not to conduct business with unlicensed insurance broker

145. (1) A licensed insurer or a licensed reinsurer shall not conduct business with or pay any commission or other remuneration to an insurance broker unless the person is licensed as an insurance broker.

(2) Subsection (1) does not apply if the person concerned

(a) carries on business outside the country; and

(b) does not require to be licensed as an insurance broker under this Act.

(3) A licensed insurer or a licensed reinsurer that contravenes subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Liquidation

Insurance intermediary not to be wound up by private liquidation

146. (1) A company that holds a licence as

(a) an insurance broker,

- (b) a reinsurance broker,
- (c) a technical service provider, or
- (d) an insurance loss adjuster,

referred to in this section and sections 148 to 150 as a relevant company, shall not be wound up by a private liquidation under the Companies Act, 2019 (Act 992) without the prior written consent of the Commission.

(2) A resolution of a relevant company to be wound up by private liquidation under the Companies Act, 2019 (Act 992) without the prior written consent of the Commission is void.

Application of Corporate Insolvency and Restructuring Act, 2020 (Act 1015)

147. The provisions of the Corporate Insolvency and Restructuring Act, 2020 (Act 1015), relating to the official liquidation of companies apply with the necessary modification in respect of insurance intermediaries and companies carrying on unlicensed insurance intermediary business to the extent specified in sections 144 to 146 and sections 148 to 150.

Commencement of proceedings

148. (1) The official winding up of a relevant company may be commenced by a special resolution of the company where the Commission has given prior written consent to the passage of the resolution.

(2) A resolution of a relevant company to appoint a liquidator in contravention of subsection (1) is void.

(3) Where the members of a relevant company appoint a liquidator in accordance with this section, the Commission may, by direction, in writing, direct the liquidator to advertise the appointment in a manner specified in the notice.

Petition for liquidation of relevant company

149. (1) The Commission may present a petition to the Court under the Corporate Insolvency and Restructuring Act, 2020 (Act 1015) to wind up

- (a) a relevant company; or
- (b) a company that is carrying on or has carried on unlicensed business as an insurance intermediary.

(2) Where a petition is presented under subsection (1), the Court may make an order for the official liquidation of the company

- (a) on any ground specified in the Corporate Insolvency and Restructuring Act, 2020 (Act 1015);
- (b) where the Court is satisfied that it is in the public interest that the company be wound up; or
- (c) in the case of a relevant company, where the Commission is entitled to take an enforcement action under sections 178 to 183.

(3) For the purposes of paragraph (b) of subsection (2), the public interest includes the interests of the customers of a relevant company.

(4) On the hearing of a petition for the official liquidation of a relevant company or a company carrying on unlicensed business as an insurance intermediary, presented by the Commission under this section, evidence that the company has, at any time prior to the date of the presentation of the petition, been insolvent is, unless the contrary is proved, evidence that the company continues to be insolvent.

Service on Commission

150. A petition for the official liquidation of a relevant company shall, where presented by a person other than the Commission, be served on the Commission and the Commission is entitled to appear and be heard at the hearing of the petition.

Financial Records

Maintenance of financial records

151. (1) A licensed insurer, a licensed reinsurer and a licensed insurance intermediary, whether a company or an individual, shall keep in the country, records that are sufficient to show and explain the transactions of the licensed insurer, the licensed reinsurer and the licensed insurance intermediary.

(2) A reporting licensee shall keep at the principal office of the reporting licensee in the country, adequate records

- (a) to enable the financial position of the reporting licensee to be determined with reasonable accuracy;
- (b) to enable the reporting licensee to prepare financial statements and make returns as it is required to be prepared and made under this Act or the Regulations; and

- (c) if applicable, to enable financial statements of the reporting licensee to be audited in accordance with this Act and directives.
- (3) The directives may specify
 - (a) the form and manner, in which the records specified in subsections (1) and (2) are to be kept;
 - (b) other records required to be kept by a licensee under this Act; and
 - (c) the form, manner and place in which the other records are to be kept.
- (4) A licensee to which subsection (1) or (2) applies, including a former licensee, shall retain the records required to be kept under this section for a period of at least six years after the completion of the transaction to which the records relate.
- (5) A licensee that contravenes subsection (1), a reporting licensee that contravenes subsection (2) or a former licensee that contravenes subsection (4) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Financial Statements and Audit

Financial year of licensee

152. The financial year of a reporting licensee is the same as the financial year of the Government.

Meaning of “financial statements”

153. For the purposes of sections 151 and 154 to 161, and the directives, “financial statements”, in relation to a reporting licensee and to a financial year mean

- (a) a statement of financial position;
- (b) a statement of comprehensive income;
- (c) a statement of changes in equity;
- (d) a statement of cash flows;
- (e) a description of significant accounting policies, and explanatory notes to the financial statement of the reporting licensee prepared in compliance with International Financial Reporting Standards approved or adopted by the Institute of Chartered Accountants, Ghana, or any other standards approved or adopted by the Institute; and
- (f) any other statement determined by the Commission.

Preparation of financial statements

154. (1) A reporting licensee shall prepare financial statements for each financial year.

(2) The financial statements shall be

- (a) prepared in accordance with the specified accounting standards; and
- (b) in compliance with this Act, the Regulations and the directives.

(3) If, in complying with the specified accounting standards, the financial statements do not give a true and fair view of the matters to which the financial statements relate, the notes to the financial statements shall contain information and explanations which give a true and fair view of those matters.

(4) The financial statements prepared under subsection (1) shall

- (a) be approved by the directors of the reporting licensee; and
- (b) subsequent to the approval under paragraph (a), be signed on behalf of all the directors by at least
 - (i) two directors, in the case of a licensed insurance intermediary; or
 - (ii) three directors in the case of a licensed insurer or reinsurer.

(5) The directors who sign the financial statements shall state

- (a) the date when the financial statements were approved by the directors; and
- (b) the date when each director signed the financial statements.

(6) A reporting licensee that contravenes subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Submission of financial statements to the Commission

155. (1) A reporting licensee shall, within three months after the end of the financial year, submit to the Commission financial statements of the reporting licensee, signed in accordance with paragraph (b) of subsection (4) of section 154, accompanied

- (a) with a certificate of the directors in the approved form;
- (b) with the report of an auditor;

- (c) in the case of a licensed insurer or a licensed reinsurer, with a financial condition report prepared in accordance with section 82, if the insurer or reinsurer is required to prepare a financial condition report;
- (d) with any report on the affairs of the reporting licensee made to the members of the reporting licensee in respect of the financial year;
- (e) if appropriate, with an actuarial valuation report; and
- (f) with other documents specified in the directives.

(2) A reporting licensee that fails to submit the financial statements of the reporting licensee to the Commission within the period specified in subsection (1) is liable to pay to the Commission an administrative penalty and a further penalty as specified in the First Schedule for each week that the financial statements are outstanding.

Submission of periodic financial statements and returns

156. (1) In this section, unless the context otherwise requires,

- (a) “financial statements” has the meaning specified in section 153 with the substitution of the period covered by the financial statement for “financial year”; and
- (b) “periodic” means any period shorter than a financial year in respect of which financial statements are required to be submitted to the Commission.

(2) A reporting licensee shall, in respect of, and within the period determined by the Commission, submit to the Commission

- (a) periodic financial statements, that may be unaudited;
- (b) a return in the approved form; and
- (c) any other information or document determined by the Commission.

(3) A reporting licensee that contravenes subsection (2) is liable to pay to the Commission an administrative penalty and a further penalty as specified in the First Schedule for each week that the financial statements are outstanding.

Amendment of financial statements

157. (1) The Commission may, by written direction, require the reporting licensee to amend the document or to submit a replacement

document, if the Commission considers that a document submitted by a reporting licensee under section 155 or 156 is

- (a) inaccurate;
- (b) incomplete; or
- (c) not prepared in accordance with this Act.

(2) Where a reporting licensee fails to comply with a direction under subsection (1), the Commission may reject the document.

(3) A reporting licensee that fails to comply with a direction issued under subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Group financial statements

158. (1) Where a reporting licensee is a member of a group of companies, the Commission may require that reporting licensee to submit group financial statements.

(2) The Commission may require that the group financial statements are audited by the auditor of the reporting licensee or by any other auditor approved, in writing, by the Commission.

(3) The directives may provide for the form and content of group financial statements to be submitted under this section and specify requirements in relation to group financial statements.

Appointment of auditor by reporting licensee

159. (1) A reporting licensee shall have an auditor who meets the requirements specified in the directives.

(2) A reporting licensee shall appoint an auditor to audit the financial statements of that reporting licensee.

(3) A person shall not be appointed as auditor under subsection (2) unless

- (a) that person is qualified as an auditor of a reporting licensee under subsection (1);
- (b) that person has consented in writing to be an auditor of the reporting licensee; and
- (c) the Commission has given prior written approval for the appointment of that person as an auditor of the reporting licensee.

(4) The Commission shall not approve the appointment of a person as an auditor of a reporting licensee unless the Commission is satisfied that the person

- (a) is qualified as an auditor,

- (b) has sufficient experience, and
 - (c) is competent to audit the financial statements of the reporting licensee.
- (5) The approval of the Commission is not required where
 - (a) the auditor appointed in respect of a financial year acted as the auditor of the reporting licensee in the preceding financial year, and
 - (b) the Commission has not revoked the approval of the auditor under subsection (1) of section 163.
- (6) A reporting licensee shall, within fourteen days of the appointment of an auditor, submit a notice of appointment in the approved form to the Commission.
- (7) Where a person ceases to be the auditor of a reporting licensee, the reporting licensee is deemed not to have contravened subsection (1) if the reporting licensee appoints another auditor in accordance with this section, within two months of the date that the person who was previously appointed as auditor ceases to hold that appointment.
- (8) A reporting licensee who,
 - (a) subject to subsection (6), does not have an auditor, or
 - (b) appoints an auditor contrary to subsection (3),is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Duties of reporting licensee in relation to audit

160. A reporting licensee shall make arrangements to enable an auditor of the reporting licensee to audit the financial statements of the reporting licensee in accordance with this Act and the Regulations, including

- (a) giving the auditor a right of access, at all reasonable times, to the financial records, and to all other documents and records of the reporting licensee; and
- (b) providing the auditor with the information and explanations that the auditor reasonably requires for the purposes of the audit.

Audit and auditor's report

161. (1) An auditor shall carry out sufficient investigation to enable that auditor form an opinion on the financial statements, and prepare an audit report, in compliance with this Act and the directives.

(2) On the completion of the audit of the financial statements of a reporting licensee, the auditor shall provide an audit report to the reporting licensee.

(3) The Commission may, by direction in writing, direct a reporting licensee to submit to the Commission a report, which may include

- (a) an opinion on the adequacy of the accounting systems and controls of the reporting licensee; and
 - (b) in the case of a licensed insurer or a licensed reinsurer, an opinion on the asset quality and the adequacy of the technical provisions of the licensed insurer or the licensed reinsurer.
- (4) A report prepared under subsection (3) shall be
- (a) prepared by the auditor of the reporting licensee or any other person nominated by the Commission; and
 - (b) at the cost of the reporting licensee.

Reporting obligations of an auditor

162. (1) Despite anything to the contrary in any other enactment, an auditor of a reporting licensee shall report immediately to the Commission any information relating to the affairs of the reporting licensee that the auditor has obtained in the course of acting as the auditor of the reporting licensee that, in the opinion of the auditor, suggests that

- (a) in the case of a licensed insurer or a licensed reinsurer,
 - (i) the business of the licensed insurer or licensed reinsurer is not, or is likely not to be, in a financially sound condition;
 - (ii) the licensed insurer or licensed reinsurer is not in compliance with subsection (1) of section 59, subsection (1) of section 60 or subsection (1) of section 62;
 - (iii) the licensed insurer or licensed reinsurer is in material non-compliance with any prudential requirements specified in the directives; or
 - (iv) the licensed insurer or licensed reinsurer has a significant weakness in the internal controls which render the licensed insurer or licensed reinsurer

vulnerable to a significant risk or exposure that has the potential to jeopardise the financial viability of the licensed insurer or licensed reinsurer;

- (b) in the case of a corporate insurance intermediary, the corporate insurance intermediary
 - (i) is in breach of, or likely to breach, the equity requirement specified in section 129, if applicable; or
 - (ii) is insolvent or likely to become insolvent;
- (c) that a criminal offence has been or is being committed by the reporting licensee or in connection with the business of the reporting licensee; or
- (d) that a serious breach of this Act, the Regulations, the directives issued or anti-money laundering and terrorist financing legislation has occurred in respect of the reporting licensee or the business of the reporting licensee.

(2) Where the appointment of an auditor of a reporting licensee is terminated, or the auditor of a reporting licensee resigns, the auditor whose appointment has been terminated, or who has resigned, shall

- (a) immediately inform the Commission, in writing, of the termination of the appointment or the resignation, and disclose to the Commission the circumstances that gave rise to the termination or resignation; and
- (b) where, but for the termination of the appointment, or the resignation, the auditor would have reported information to the Commission under subsection (1), report the information concerned to the Commission, as if the appointment had not been terminated or the auditor had not resigned.

(3) The Commission may require an auditor or former auditor of a reporting licensee to

- (a) discuss with the Commission any audit that the auditor has conducted or commenced, or
- (b) provide additional information regarding the audit to the Commission.

(4) Where, in good faith, a person who is, or was, an auditor of a reporting licensee provides any information to the Commission under subsection (1), (2) or (3),

- (a) the auditor or former auditor is considered not to be in contravention of any enactment, rule of law, agreement,

regulatory or administrative requirement or professional code of conduct to which the auditor or former auditor is or was subject; and

(b) civil, criminal or disciplinary proceedings shall not lie against the auditor or former auditor.

(5) The failure, in good faith, of a person who is, or was, an auditor of a reporting licensee, to provide a report or information to the Commission under subsection (1), (2) or (3) does not confer on any other person a right of action against the auditor or former auditor which, but for that failure, the other person would not have had.

(6) An auditor or former auditor who fails to comply with subsection (1) or (2) or paragraph (b) of subsection (3) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Power of Commission to appoint an auditor

163. (1) Where the Commission is satisfied that the auditor of a reporting licensee

(a) has failed to fulfil the obligations of an auditor under this Act, or

(b) is otherwise not a fit and proper person to act as the auditor of a reporting licensee,

the Commission may, by written direction to the reporting licensee, revoke the approval of the appointment of the auditor and the reporting licensee shall appoint a new auditor in accordance with section 159.

(2) The reporting licensee shall give a notice revoking the appointment of an auditor under subsection (1) to the auditor.

(3) Where a reporting licensee fails to appoint an auditor, the Commission may appoint a qualified person to be the auditor of the reporting licensee.

(4) An auditor appointed under subsection (3) is considered, for the purposes of this Act, to have been appointed by the reporting licensee and the reporting licensee shall be responsible for the costs and remuneration of the auditor.

*Inspection Visits***Commission to undertake inspection visit**

164. (1) The Commission may, for the purpose of performing the functions of the Commission

- (a) inspect the premises and the business of a relevant person, whether within or outside the country;
- (b) inspect any premises or business of a person to whom a relevant person has outsourced any function or activity, whether within or outside the country;
- (c) inspect the assets, including cash, belonging to or in the possession or control of a relevant person or of a person to whom any function or activity of the relevant person has been outsourced;
- (d) examine and make copies of documents belonging to or in the possession or control of a relevant person or of a person specified in paragraph (b) that, in the opinion of the Commission, relate to the insurance business or the business as an insurance intermediary, by the relevant person; and
- (e) seek information and an explanation from
 - (i) an officer,
 - (ii) an employee,
 - (iii) an agent, or
 - (iv) a representative of a relevant person specified in subparagraph (i), (ii) or (iii) of this paragraph, or of a person specified in paragraph (b),

whether verbally or in writing, and whether in preparation for, during or after an inspection visit.

(2) The Commission shall, when undertaking an inspection visit, ensure that the relevant person has adequate procedures in place to prevent the licensee from being used for purposes of money laundering or financing of terrorism.

(3) An inspection visit may be undertaken by

- (a) an authorised employee of the Commission;
- (b) an authorised employee of the Commission and a person authorised by the Commission; or
- (c) any other person authorised by the Commission.

(4) An inspection visit undertaken in relation to a person to whom a function or an activity of a relevant person has been outsourced, shall be limited to the aspects of the premises, business, assets or documents that are relevant to the functions of the Commission in relation to the relevant person.

(5) Subject to subsection (6), the Commission shall give reasonable notice to a relevant person of the intention of the Commission to exercise the power of the Commission under subsection (1).

(6) Where the Commission considers that the circumstances so justify, the Commission may exercise the power of the Commission under subsection (1) without notice.

(7) The Commission shall provide a relevant person with a brief written report on the outcome of each inspection visit that the Commission undertakes.

Duties of relevant person

165. (1) A relevant person shall permit an authorised employee of the Commission, or a person authorised by the Commission, undertaking an inspection visit, to have access to

- (a) any premises of the relevant person, the business and any assets in possession or control of the relevant person that the Commission requires to inspect, and
- (b) all documents, including financial records and electronic records, that the Commission requires.

(2) A relevant person who contravenes subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

(3) For the purposes of section 164 and this section, “relevant person” means

- (a) a licensee;
- (b) a subsidiary or holding company of a licensee; or
- (c) a former licensee.

Power of Commission to Obtain Information

Notice to provide information or produce documents

166. (1) For the performance of the functions of the Commission under this Act or any other enactment, the Commission may, by notice, in writing, given to a person specified in subsection (2), require that person

- (a) to provide specified information or information of a specified description; or
- (b) to produce a specified document or a document of a specified description.

- (2) A notice under subsection (1)
- (a) may be issued to
 - (i) a licensee;
 - (ii) a former licensee;
 - (iii) a person the Commission reasonably believes to be carrying on, or to have at any time carried on, unlicensed business;
 - (iv) a person connected with a person specified in subparagraph (i), (ii) or (iii);
 - (v) a person who the Commission has reason to believe is in possession of the information; or
 - (vi) in the case of a notice requiring the production of documents, any person who the Commission has reason to believe is in possession of the documents; and
 - (b) shall specify the place where and the period within which the information or documents is to be provided or produced.
- (3) The Commission may require
- (a) information provided under this section to be provided in the form specified by the Commission;
 - (b) information provided or documents produced under this section to be verified or authenticated in a manner that the Commission may specify;
 - (c) that the information is to be provided to, or the documents are to be produced to or by a person specified in the notice; and
 - (d) that the person to whom the notice is issued, or a person who is or has been a director, auditor or actuary of that person, provide an explanation in relation to the information or documents that the Commission may reasonably require.
- (4) The Commission may take copies or extracts of any document produced under this section.
- (5) Where a person claims a lien on a document, the production of the document under this section is without prejudice to that lien.
- (6) A person who, without reasonable excuse, fails to comply with a notice issued under this section commits an offence and is liable on summary conviction to a fine or a term of imprisonment or to both as specified in the First Schedule.

*Remedial Measures***Recovery plan**

167. (1) The Commission may give a licensed insurer or a licensed reinsurer a written direction to prepare a recovery plan if the Commission has reasonable grounds to believe that any of the following occurs:

- (a) the licensed insurer or licensed reinsurer has breached, is breaching or is likely to breach a solvency control level;
 - (b) the business of the licensed insurer or licensed reinsurer has not been, or is not being, conducted in a prudent manner or in accordance with sound insurance principles;
 - (c) the licensed insurer or licensed reinsurer is carrying on, or is likely to carry on, the licensed insurance or reinsurance business in a manner detrimental to the
 - (i) interest of the policyholders or the prospective policyholders of the insurer or reinsurer; or
 - (ii) public interest; or
 - (d) the licensed insurer or licensed reinsurer has failed, is failing or is likely to fail to comply with a condition of the licence or a notice issued by the Commission.
- (2) The recovery plan shall
- (a) be in writing;
 - (b) set out the actions that the licensed insurer or licensed reinsurer will take to effectively address the matters that caused the Commission to give the direction and in particular to ensure that,
 - (i) the licensed insurer or licensed reinsurer meets the prescribed capital adequacy requirements;
 - (ii) the business of the licensed insurer or licensed reinsurer is conducted in a prudent manner and in accordance with sound insurance principles; and
 - (iii) the licensed insurer or licensed reinsurer complies, or remains compliant with, any notice, condition, or other requirement imposed by the Commission under this Act, the Regulations or directives;
 - (c) set out an appropriate timetable for taking the actions specified in paragraph (b), which shall ensure that those actions are taken and completed as soon as practicable;
 - (d) specify the steps that the licensed insurer or licensed reinsurer is to take to ensure that the plan remains current,

including procedures for regular review of the plan to systematically identify deficiencies in the effectiveness of the plan;

- (e) be appropriate to the operations of the licensed insurer or licensed reinsurer, having regard for
 - (i) the nature, scale, complexity and diversity of the business of the licensed insurer or licensed reinsurer; and
 - (ii) the risk to which the licensed insurer or licensed reinsurer is exposed;
- (f) be prepared within the time and in the manner specified by the Commission in the direction; and
- (g) be approved by the board of the licensed insurer or licensed reinsurer within the time specified by the Commission in the direction.

(3) The Commission may, by the direction, require the recovery plan to specify a final date, to the satisfaction of the Commission, by which

- (a) all of the actions referred to in paragraph (b) of subsection (2) are to be undertaken; and
- (b) the outcomes in subparagraph (i), (ii), or (iii) of paragraph (b) of subsection (2) are to be achieved.

(4) The Commission may, in the direction, require the licensed insurer or licensed reinsurer to obtain assistance in the preparation of the recovery plan from a person determined by the Commission.

(5) A direction given under this section shall state the grounds on which the direction is given.

(6) A licensed insurer or licensed reinsurer that fails to comply with a direction of the Commission to prepare a recovery plan is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Approval of recovery plan by Commission

168. (1) A licensed insurer or a licensed reinsurer to which a direction has been given under section 167 shall, within the time specified by the Commission, provide a copy of the recovery plan to the Commission.

(2) The Commission shall, after receipt of the recovery plan, inform the licensed insurer or licensed reinsurer whether the Commission

is satisfied that the plan meets the requirements specified in subsections (2) and (3) of section 167.

(3) Where the Commission is not satisfied that the recovery plan meets the requirements specified in subsections (2) and (3) of section 167

(a) the Commission may require the licensed insurer or licensed reinsurer to amend the recovery plan and resubmit the amended recovery plan to the Commission for approval within a reasonable time that the Commission may specify; and

(b) the licensed insurer or licensed reinsurer shall comply with those requirements.

Licensed insurer or licensed reinsurer to comply with recovery plan

169. (1) A licensed insurer or a licensed reinsurer shall, after the recovery plan has been approved by the Commission, take all reasonable steps to comply with the recovery plan.

(2) A licensed insurer or a licensed reinsurer that contravenes subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Amendment of recovery plan

170. (1) A licensed insurer or a licensed reinsurer may amend the recovery plan only with the written approval of the Commission.

(2) Where the Commission is no longer satisfied that the recovery plan meets the requirements specified in subsections (2) and (3) of section 167, the Commission may, by written direction given to the licensed insurer or licensed reinsurer,

(a) require the licensed insurer or licensed reinsurer to amend the plan in the manner specified by the Commission; and

(b) resubmit the amended recovery plan to the Commission for approval within a reasonable time that the Commission may specify.

(3) The licensed insurer or licensed reinsurer shall comply with requirements of subsection (2).

Appointment of skilled person

171. (1) The Commission may, by direction, in writing, require a licensee or a subsidiary or holding company of a licensee to appoint a

skilled person, at the cost of the licensee or a subsidiary or holding company of the licensee

- (a) in the case of a licensee, to advise the licensee on the proper conduct of the business of the licensee; and
- (b) in the case of a subsidiary or holding company of a licensee, to carry out an investigation and provide the Commission with a report on, or on any aspect of,
 - (i) the business and affairs of the licensee or a subsidiary or holding company of the licensee, or
 - (ii) the financial condition of the licensee or a subsidiary or holding company of the licensee.

(2) The Commission may require the report provided under paragraph (b) of subsection (1) to be in the form specified in the direction.

(3) The person appointed as a skilled person under subsection (1), shall be a person

- (a) with the relevant qualification and experience;
- (b) approved by the Commission; and
- (c) who the Commission considers to have the skills necessary to advise the licensee or make a report on the matter in question.

(4) A licensee or a subsidiary or holding company of a licensee that appoints a skilled person under this section and a person who is providing, or who, at any time has provided, services to the licensee or subsidiary or holding company of the licensee in relation to a matter on which a report is required, shall give the skilled person the assistance that the skilled person may require.

(5) A person to whom a direction is issued under subsection (1) who fails to comply with the direction issued under subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

(6) A person who contravenes subsection (4) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Enquiries

Interview by Commission

172. (1) Where the Commission believes, on reasonable grounds, that a person can provide information that the Commission requires for the purposes of performing the functions of the Commission, the Commission may, by notice, in writing, require the person to attend an interview before a designated staff of the Commission on a date and at a

time and place specified in the notice to answer questions relevant to the information that the Commission requires.

- (2) A notice under subsection (1) shall state
- (a) the general nature of the matters on which the person is to be interviewed;
 - (b) the date, time and place the person is required to attend the interview; and
 - (c) the right of the person to be represented by a legal representative in accordance with subsection (1) of section 173.

(3) Where there is a change in the matters required to be stated in the notice under subsection (2), the Commission shall confirm to the person in writing before the date on which the person is to be interviewed.

Conduct of interview by Commission

173. (1) A person may be represented at an interview conducted by the Commission by a legal representative who may, at the time that the interviewer determines

- (a) address the interviewer; and
- (b) question the interviewee on any matters on which the interviewer has asked the interviewee questions.

(2) Subject to subsection (3), an interview under this section shall be held *in camera*.

- (3) The interviewer may permit to be present at the interview
- (a) any officer or employee of the Commission and any other person that, in the opinion of the interviewer, is necessary for the interview; and
 - (b) any person who the interviewee requests to be present.

(4) The interviewer shall cause a written record to be made of the interview and shall, not more than fourteen days after the conclusion of the interview, provide a written copy of the record to the interviewee, subject to the conditions that the interviewer may impose.

(5) An interview scheduled by the Commission in accordance with this section may proceed despite the failure of an interviewee or other person to

- (a) attend the interview in accordance with the notice;
- (b) answer a question that has been properly put to the interviewee or the other person; or
- (c) comply with conditions imposed by the interviewer.

(6) The findings of an interview conducted under subsection (5) is binding on all parties.

Examination under oath or affirmation by Court

174. (1) Where the Commission has reason to believe that a person can provide information that the Commission reasonably requires for the performance of the functions of the Commission, the Commission may apply to the Court to have that person examined under oath or affirmation before the Court and to have the results of that examination transmitted to the Commission.

(2) On an application under subsection (1), the Court may, on terms and conditions as the Court considers appropriate, order

- (a) the examination of a person under oath or affirmation; and
- (b) the production by that person to the Court of documents specified in the order.

(3) A person may choose to be represented by a legal representative at an examination held under this section and the proceedings of the examination may be held *in camera*.

(4) An application to the Court under subsection (1) shall be

- (a) processed by the Court within fourteen days of the application and the results of the examination, together with the documents produced, and
- (b) provided to the Commission within a period not exceeding fourteen days, after the date of the examination.

Search warrant

175. (1) The Court may issue a search warrant under this section if the Court is satisfied, on information on oath or affirmation given on behalf of the Commission, that there are reasonable grounds to believe that one or more of the conditions specified in subsection (2) have been satisfied.

(2) The conditions referred to in subsection (1) are

- (a) that a person has failed to comply with a notice issued by the Commission under subsection (1) of section 166 within the period specified in the notice and that on the premises specified in the warrant
 - (i) there are documents that are required to be produced; or
 - (ii) there is information that is required to be provided;
- (b) that a notice may be issued by the Commission to a person under subsection (1) of section 166, and

- (i) there are documents, or there is information, on the premises that may be required to be produced or provided; and
- (ii) if the notice was issued, the notice would not be fully complied with or the documents or information to which the notice relates would be removed, tampered with or destroyed; and

(c) that

- (i) an offence under this Act or the Regulations has been, is being or may be committed by a person;
- (ii) there are documents, or there is information, on the premises specified in the warrant that evidence the commission of the offence; and
- (iii) if a notice under subsection (1) of section 166 was issued, the notice would not be complied with or the documents or information to which the notice relates would be removed, tampered with or destroyed.

(3) A warrant issued under this section shall authorise a named representative of the Commission, together with a police officer and any other person named in the warrant to

- (a) enter the premises specified in the warrant at any time within seven days from the date of the warrant;
- (b) search the premises and take possession of any documents or information appearing to be documents or information of a type in respect of which the warrant was issued or to take, in relation to such documents or information, any other steps necessary for preserving or preventing interference with the document or information;
- (c) take copies of, or extracts from, any documents or information appearing to be documents or information of a type in respect of which the warrant was issued;
- (d) require any person on the premises to provide an explanation of any document or information appearing to be documents or information of a type in respect of which the warrant was issued or to state where the documents or information may be found; and
- (e) use such force as may be necessary to execute the warrant.

(4) Except as the Court otherwise, on the application of the Commission, orders, a document of which possession is taken under this section may be retained

- (a) for three months; or
- (b) if within the period specified in paragraph (a), proceedings for a criminal offence, to which the document is relevant are commenced against any person, until the conclusion of those proceedings.

(5) In this section, “premises” includes a building, a vehicle, a vessel or an aircraft.

Investigation

Appointment of investigator

176. (1) The Commission may appoint, in writing, one or more persons with the relevant competence as investigators to conduct an investigation on behalf of the Commission

- (a) with respect to a licensee if it appears to the Commission that there are grounds, or there may be reasonable grounds, for the licensee to
 - (i) appoint a statutory manager under section 99;
 - (ii) require a recovery plan under section 167;
 - (iii) require the appointment of a skilled person under section 171;
 - (iv) issue a direction under section 178 or 179; or
 - (v) apply to the Court for an order under section 182;
- (b) if the Commission is of the opinion that it is desirable to appoint an investigator in the
 - (i) interest of the customers or creditors or prospective customers or creditors of the licensee; or
 - (ii) public interest;
- (c) with respect to a former licensee, if the Commission would have been entitled to appoint an investigator under paragraph (a) or (b), but for the cancellation of the licence of the licensee; and
- (d) with respect to a person, if it appears to the Commission that the person is carrying on, or has carried on, unlicensed business.

(2) The matters investigated by an investigator appointed under subsection (1) may include any of the following in respect of the person being investigated:

- (a) the nature, conduct or financial condition of the business of the person;
- (b) a particular aspect of the business of the person;
- (c) the ownership or control of the person being investigated;
- (d) in the case of a licensee, whether there are grounds for the taking of any of the actions specified in paragraph (a) of subsection (1) against the licensee; and
- (e) whether the person is carrying on, or has carried on, unlicensed business.

(3) The Commission may give a direction to the investigator in respect of any of the following:

- (a) the scope of the investigation;
- (b) the period for the conduct of the investigation;
- (c) the methodology for the conduct of the investigation; and
- (d) the manner in which the investigator shall report to the Commission.

(4) Where an investigator is appointed with respect to a former licensee, an investigation under subsection (2) shall extend only to

- (a) in the case of paragraphs (a) and (b) of subsection (2), the business of the person carried on at the time the person was a licensee; and
- (b) in the case of paragraph (c) of subsection (2), to the ownership or control of the person at the time the person was a licensee.

(5) An investigator shall, within fourteen days of completion of the investigation, submit a report of the investigation to the Commission.

(6) The Commission may direct that the licensee pays for the cost, or a part of the cost as the Commission may specify, of an investigation conducted under this section.

(7) A person who fails to provide the assistance required by an investigator appointed under this section commits an offence and is liable on summary conviction to a fine or a term of imprisonment or to both as specified in the First Schedule.

Powers of investigator

177. (1) Subject to subsection (2) and to a direction given by the Commission under subsection (3) of section 176, an investigator appointed under this section

- (a) may require the person under investigation or any person connected with the person under investigation to attend before the investigator at such time and place as the investigator may determine to answer questions; and
- (b) has the power of the Commission to
 - (i) require the provision of information or documents under section 166;
 - (ii) apply to the Court under section 174 for the examination of a person under oath or affirmation; and
 - (iii) apply to the Court under section 175 for a search warrant.

(2) The investigator may only exercise a power under subsection (1) to the extent that the investigator considers necessary for the purpose of the investigation.

(3) An investigator appointed under section 176 may, if the investigator considers it necessary for the purposes of the investigation, on giving written notice to the person concerned, also investigate the business of a person who is, or at any relevant time has been

- (a) a member of the group of which the person under investigation is a part; or
- (b) a partnership of which the person under investigation is a member.

Enforcement

Direction to licensed insurer and licensed reinsurer

178. (1) The Commission may issue a direction to a licensed insurer or a licensed reinsurer if any of the following occurs:

- (a) the Commission has reason to believe that any of the following applies in relation to the insurer or reinsurer:
 - (i) there are grounds for the Commission to direct the licensed insurer or licensed reinsurer to prepare a recovery plan under section 167;
 - (ii) the licensed insurer or licensed reinsurer has departed substantially from the most recent business plan submitted to the Commission; or

- (iii) the governance structure of the licensed insurer or licensed reinsurer is no longer appropriate having regard of the nature, scale, complexity and diversity of the business of the insurer or reinsurer and the risk to which the insurer or reinsurer is exposed; or
 - (b) the Commission has, whether as a result of an inspection visit or otherwise, identified a matter that, in the opinion of the Commission, represents a supervisory risk; or
 - (c) the Commission has reason to believe that the licensed insurer or licensed reinsurer has failed, is failing, or is likely to fail to comply with any requirement of this Act, the Regulations or the directives or any direction of the Commission or any condition of the licence of the insurer or reinsurer.
- (2) A direction issued under subsection (1) may
- (a) impose one or more prohibitions, restrictions, limitations or conditions on the licensed insurer or licensed reinsurer, or the business of the licensed insurer or licensed reinsurer, including
 - (i) not to enter into a new contract of insurance or vary an existing contract;
 - (ii) ceasing to engage in any type of insurance business;
 - (iii) carrying on or ceasing to carry on business, or any part of the business of the licensed insurer or licensed reinsurer, in accordance with the direction;
 - (iv) refraining from making, or realising, investments of a specified type or description;
 - (v) not to transfer the assets, or specified assets of the licensed insurer or licensed reinsurer, to any other person;
 - (vi) not to declare or make any distribution to the shareholders of the licensed insurer or licensed reinsurer; or
 - (vii) giving of notice to the Commission, or obtaining specific approval from the Commission, before the licensed insurer or licensed reinsurer undertakes certain specified actions or types or descriptions of action;
 - (b) require the licensed insurer or licensed reinsurer
 - (i) to increase the capital resources of the licensed insurer or licensed reinsurer;

- (ii) to enter into one or more reinsurance contracts or retrocession contracts as cedant or take other specified mitigating measures;
 - (iii) to arrange the transfer of obligations under any contract to another insurer or reinsurer that is willing to accept the obligation;
 - (iv) to provide specified reports or returns to the Commission;
 - (v) to appoint a skilled person under section 171;
 - (vi) to appoint additional directors, senior managers or persons in key control functions, approved by the Commission; or
- (c) require the licensed insurer or licensed reinsurer to take other action that the Commission considers necessary to
- (i) safeguard the financial condition of the licensed insurer or licensed reinsurer;
 - (ii) protect property in the custody, possession or control of the licensed insurer or licensed reinsurer;
 - (iii) protect the policyholders of the licensed insurer or licensed reinsurer; or
 - (iv) address a supervisory risk identified by the Commission.

(3) A licensed insurer or a licensed reinsurer that fails to comply with a direction issued under this section is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Direction to licensed insurance intermediary

179. (1) The Commission may issue a direction to a licensed insurance intermediary if the Commission

- (a) has reason to believe that any of the following applies in relation to the licensed insurance intermediary:
 - (i) the licensed insurance intermediary has failed, is failing, or is likely to fail to comply with any requirement of this Act or the Regulations, a directive or a condition of the licence of the insurance intermediary;
 - (ii) the licensed insurance intermediary is carrying on, or is likely to carry on, the licensed business in a manner detrimental to the interests of the customers

- of the licensed insurance intermediary, or the public interest;
 - (iii) the licensed insurance intermediary has departed substantially from the most recent business plan submitted to the Commission; or
 - (iv) the governance structure of the licensed insurance intermediary is no longer appropriate having regard for the nature, scale, complexity and diversity of the business of the licensed insurance intermediary and the risk to which the licensed insurance intermediary is exposed;
- (b) whether as a result of an inspection visit or otherwise, has identified a matter that, in the opinion of the Commission, represents a supervisory risk; or
- (c) has reason to believe that the licensed insurance intermediary has failed, is failing, or is likely to fail to comply with a requirement of this Act or the Regulations, any direction of the Commission or a condition of the licence of the licensed insurance intermediary.
- (2) A direction issued under subsection (1) may
- (a) impose one or more prohibitions, restrictions, limitations or conditions on the licensed insurance intermediary or the business of the licensed insurance intermediary, including the ceasing of
 - (i) the licensed insurance intermediary to act as an insurance intermediary; or
 - (ii) the licensed insurance intermediary to accept particular types of business; or
 - (b) require the licensed insurance intermediary to take any other action that the Commission considers necessary to
 - (i) protect the interest of the customers or prospective customers of the licensed insurance intermediary; or
 - (ii) address a supervisory risk identified by the Commission.
- (3) A licensed insurance intermediary that fails to comply with a direction issued under this section is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Direction to person carrying on unlicensed business

180. (1) The Commission may issue a written direction to a person that is carrying on, or has carried on, unlicensed business requiring the person

- (a) to cease carrying on the unlicensed business;
- (b) to take an action that the Commission considers necessary to protect
 - (i) the property of, or property in the custody, possession or control of, that person; or
 - (ii) the interests of persons with whom the person is carrying on or has carried on the unlicensed business.

(2) A person who fails to comply with a direction issued under subsection (1) commits an offence and is liable on summary conviction to a fine or a term of imprisonment or to both as specified in the First Schedule.

General provisions concerning directions

181. (1) A direction given under section 178, 179 or 180 shall

- (a) be in writing; and
- (b) state the grounds on which the direction is given.

(2) The Commission may

- (a) amend or modify a direction;
- (b) replace a direction with another direction; or
- (c) revoke a direction.

Application to Court for order

182. (1) The Commission may apply to the Court for an order under this section with respect to

- (a) a licensee, where
 - (i) the licence of the licensee has been or is about to be cancelled; or
 - (ii) the Commission is entitled to take enforcement action against the licensee;
- (b) a former licensee; or
- (c) a person that is carrying on, or has carried on, unlicensed business.

(2) On an application made under subsection (1), the Court may make an order as the Court considers necessary to protect or preserve the

- (a) business or property of the person with respect to whom the application is made; or
- (b) interest of the

- (i) customers, prospective customers, creditors of the person; or
- (ii) public.

(3) An order made under subsection (2) may include any of the following orders:

- (a) an order preventing the person concerned or any other person from transferring, disposing of or otherwise dealing with property belonging to that person or in the custody or under the control of that person;
- (b) an order appointing an administrator to take over and manage the business, or any part of the business of that person;
- (c) an order granting the Commission a search warrant; or
- (d) where the person concerned is in contravention of this Act, the Regulations or the directives, an order requiring the person concerned to take an action, or to refrain from taking an action, as is necessary to bring that person back into compliance with this Act, the Regulations or the directives.

(4) An order made under paragraph (b) of subsection (3) shall specify the powers of the administrator.

(5) An order under subsection (4) may

- (a) include
 - (i) the powers of a licensee under this Act; or
 - (ii) the power of a liquidator appointed by the Court under the Corporate Insolvency and Restructuring Act, 2020 (Act 1015);
- (b) require an administrator to provide security to the satisfaction of the Court;
- (c) fix and provide for the remuneration of the administrator; or
- (d) require any person that the Court considers necessary to appear before the Court for the purposes of giving information or producing documents concerning the person with respect to whom the order is made or the business carried on by that person.

(6) An order made under paragraph (b) of subsection (3) shall make provision for reports to be submitted by the administrator to the

- (a) Court; and
- (b) Commission.

- (7) The Court may, on its own initiative or on the application of the Commission or the administrator, make any of the following orders:
- (a) an order giving directions to the administrator concerning the exercise of the powers of the administrator;
 - (b) an order varying the powers of the administrator;
 - (c) an order terminating the appointment of the administrator; or
 - (d) an order that the person in respect of whom the order is applied for or made, pays the cost, in whole or in part, of or in connection with
 - (i) the application of the Commission under this section, whether or not an order is made; and
 - (ii) giving effect to any order made.
- (8) An application under subsection (1) may be made
- (a) without notice by the Commission or upon such notice as the Court may require; and
 - (b) before the Commission gives notice of the intention to cancel a licence.

Public statements

183. (1) Subject to subsection (6), the Commission may issue a public statement in a manner that the Commission considers appropriate.

(2) A public statement issued under subsection (1) shall indicate the

- (a) enforcement action that the Commission intends to take against a licensee; or
- (b) enforcement action that the Commission has taken against a licensee or a former licensee.

(3) A public statement issued under subsection (1) may include

- (a) the reasons for the enforcement action taken or to be taken;
- (b) the nature of the enforcement action taken or to be taken; and
- (c) any other information that the Commission considers appropriate.

(4) Where the Commission considers it in the public interest, the Commission may issue a public statement in a manner that the Commission considers appropriate with respect to

- (a) any person who the Commission has reason to believe is carrying on, has carried on, intends to carry on or is likely to carry on unlicensed business;

- (b) any matter relating to the insurance market where the Commission considers that the statement is desirable for
- (i) the protection of the public, whether within or outside the country, against financial loss arising out of the dishonesty, incompetence, malpractice or insolvency of persons engaged in business within the insurance industry; or
 - (ii) the deterrence of financial crime and other unlawful activities relating to the insurance industry.

(5) Subject to subsection (6), where a public statement is to be issued under this section in relation to a licensee or a former licensee, the Commission shall give the licensee or former licensee seven days written notice of the intention of the Commission to issue the public statement and the reasons for the intended issue of the statement.

(6) If the Commission is of the opinion that it is in the

- (a) public interest, or
- (b) interest of the customers, prospective customers or creditors of a licensee or former licensee,

that subsection (5) should not have effect or that the period referred to in that subsection should be reduced, the Commission may issue the public statement without notice to the licensee or former licensee or within a shorter period that the Commission considers appropriate.

(7) The Commission shall not, in accordance with subsection (5), issue a public statement in relation to the imposition of an administrative penalty until the administrative penalty has become final.

Administrative Penalties

Penalty for late payment

184. (1) An administrative penalty imposed shall be paid by a licensee within a period of thirty days or any other period as may be agreed between the Commission and the licensee.

(2) The penalty for the late payment by a licensee of any fee, charge, levy, contribution or penalty payable under this Act or the Regulations, including an administrative penalty, is equal to zero point five percent of the penalty for each day that the contravention subsists.

(3) Where the contravention constitutes the late payment of a fee, charge, levy, contribution or penalty payable under this Act or the Regulations, the Commission may impose an administrative penalty by written notice stating

- (a) the fee, charge, levy, contribution or penalty in respect of which the administrative penalty for late payment is being imposed; and
- (b) the amount of the penalty.

(4) A licensee who receives a notice under subsection (3) shall pay the late payment penalty stated in the notice to the Commission, or appeal against the imposition of the penalty, within ten days of the date of the administrative penalty notice.

Whistleblowing

Arrangements for disclosures of concerns by employees and directors

185. (1) A licensed insurer, a licensed reinsurer or a licensed insurance intermediary that is a company shall establish, maintain and implement effective arrangements for the disclosure, by an employee or a director to the licensed insurer, licensed reinsurer or licensed insurance intermediary, or to the Commission, of the concerns of the employee or director in relation to

- (a) a breach of the legal or regulatory obligations of the licensed insurer, licensed reinsurer or licensed insurance intermediary;
- (b) a contravention of the policies and procedures of the licensed insurer, licensed reinsurer or licensed insurance intermediary; or
- (c) the behaviour that harms or is likely to harm
 - (i) the interest of customers or potential customers; or
 - (ii) the reputation or financial soundness of the licensed insurer, licensed reinsurer or licensed insurance intermediary.

(2) The arrangements maintained in accordance with subsection (1) shall

- (a) ensure the protection of the identity of the employee or a director who makes a disclosure;

- (b) ensure the effective investigation, assessment and, where appropriate, escalation of concerns disclosed by the employee or a director, including to the Commission;
- (c) ensure the protection from retaliation or victimisation of the employee or director who has made a disclosure;
- (d) if the disclosure is made to the licensed insurer, licensed reinsurer or licensed insurance intermediary
 - (i) require that the employee or director who has made a disclosure is provided with appropriate feedback; and
 - (ii) require that disclosures are recorded in writing;
- (e) require that the board is provided with periodic reports on the effectiveness of the arrangements; and
- (f) include appropriate training for employees and directors on the arrangements.

(3) A licensed insurer, a licensed reinsurer or a licensed insurance intermediary shall ensure that the employees and directors of the licensed insurer, licensed reinsurer or licensed insurance intermediary are made aware of the right to make disclosures under the Whistleblower Act, 2006 (Act 720), in addition to the arrangements maintained in accordance with this section.

(4) A licensed insurer, a licensed reinsurer or a licensed insurance intermediary that contravenes subsection (1) or (3) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

General Supervisory Matters

Applications under this Act

186. (1) An application made under this Act, the Regulations or the directives shall

- (a) be in writing and, where applicable, in the approved form; and
 - (b) include the information, and be accompanied by the documents, required by this Act, the Regulations or the directives.
- (2) The Commission may
- (a) require an applicant to provide the Commission with the relevant information and documents, in addition to those

- specified in paragraph (b) of subsection (1), that the Commission may require to determine the application;
- (b) specify the form in which the information and documents are to be provided and the period within which the documents and information are to be provided; and
 - (c) require any documents and information provided to be verified in the manner that the Commission may determine.
- (3) Where, before the determination by the Commission of an application,
- (a) there is a material change in any information or document provided by or on behalf of the applicant to the Commission in connection with the application, or
 - (b) the applicant discovers that the information or document provided is incomplete, inaccurate or misleading,
- the applicant shall immediately give the Commission written particulars of the change or of the incomplete, inaccurate or misleading information or document.
- (4) An applicant that fails to comply with subsection (3) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Conditions

187. (1) A licence may be issued, or an approval or exemption granted, subject to such conditions as the Commission considers appropriate.
- (2) Where a licence is issued, or an approval or exemption is granted, subject to conditions determined by the Commission,
- (a) the Commission shall, together with the licence, approval or exemption, issue a written notice specifying the conditions; and
 - (b) if, in respect of any conditions, the Commission considers that it is in the public interest to do so, the Commission may state those conditions on the licence, approval or exemption.
- (3) The Commission may, upon giving reasonable written notice to a licensee,
- (a) vary or revoke any condition; or
 - (b) impose a new condition on the licence, approval or exemption.
- (4) A licensee may apply to the Commission in writing for a condition to be revoked or varied.

(5) Where the Commission is satisfied that a condition is no longer necessary or should be varied, the Commission may revoke or vary the condition.

(6) Where the Commission revokes or varies a condition or imposes a new condition, the licensee shall, if requested to do so by the Commission, deliver the licence, approval or exemption of the licensee to the Commission for re-issue.

(7) For the purpose of this section,

“approval” means a permission granted under this Act or the Regulations;

“condition” means a requirement attached to a licence or to an approval or exemption; and

“exemption” means an exception granted under this Act or the Regulations.

Returns and reports

188. (1) A licensee shall submit to the Commission such reports and returns relating to the financial condition and business of the licensee as specified in the Act, the Regulations or the directives or as requested by the Commission.

(2) Where the Commission considers that any report or return submitted by a licensee under subsection (1) is

(a) inaccurate,

(b) incomplete,

(c) delayed,

(d) not prepared in accordance with this Act, the Regulations or the directives, or

(e) not in the approved form,

the licensee is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Supervisory Co-operation

Duty to co-operate

189. (1) The Commission shall co-operate with

(a) law enforcement authorities;

(b) supervisory authorities in the country; and

(c) foreign supervisory authorities.

(2) Co-operation under subsection (1) includes the sharing of information and documents which the Commission is not prevented by this Act or any other enactment from disclosing.

Provision of assistance to other authorities

190. (1) Subject to subsection (2), on the written request of a relevant supervisory or law enforcement authority, the Commission may

- (a) exercise the power to undertake an inspection visit under section 164;
- (b) exercise the power conferred on the Commission by section 166 to obtain information or documents;
- (c) require a person to be interviewed by the Commission under section 172;
- (d) make an application under section 174 for the examination of a person under oath or affirmation by the Court; or
- (e) appoint one or more persons as investigators to investigate any matter.

(2) The Commission shall not exercise a power conferred on the Commission by subsection (1) on the request of a relevant supervisory or law enforcement authority, unless the Commission is of the opinion that the information or document to which the request relates is reasonably required by the relevant supervisory or law enforcement authority for the purposes of the functions of the relevant supervisory or law enforcement authority.

(3) An investigator appointed under paragraph (e) of subsection (1) of this section has the power of an investigator under section 177.

(4) The Commission may disclose information, or provide document, to a relevant supervisory or law enforcement authority whether the information or document

- (a) was obtained through the exercise of a power specified in subsection (1); or
- (b) is in the possession of the Commission.

(5) Where the Commission would, on the written request of a relevant supervisory or law enforcement authority, be entitled to disclose information or provide document in the possession of the Commission to the relevant supervisory or law enforcement authority, the Commission may disclose the information or document to the relevant supervisory or law enforcement authority without having received a written request from the relevant supervisory or law enforcement authority.

Matters relevant to the provision of assistance

191. (1) In deciding whether or not to exercise the power conferred on the Commission by subsection (1) of section 190, the Commission may take into account,

- (a) in the case of a request from a foreign supervisory authority, whether reciprocal assistance would be given to the Commission in the country or the foreign supervisory authority;
- (b) the nature and seriousness of the matter to which the request for assistance relates and whether the assistance can be obtained by other means;
- (c) the relevance of the information or document to the enquiries to which the request relates;
- (d) whether it is in the interest of customers or prospective customers of a licensee and the public interest to provide the assistance sought; and
- (e) other matters that the Commission considers relevant.

(2) For the purposes of paragraph (a) of subsection (1), the Commission may require the foreign supervisory authority making the request to give a written undertaking, in the form that the Commission may require, to provide reciprocal assistance to the Commission.

(3) The Commission may decide that the Commission will not, on the request of a foreign supervisory authority, exercise the power of the Commission under this section unless

- (a) the Commission has received satisfactory assurances from that foreign supervisory authority that any information and document provided to the foreign supervisory authority will not be used in any criminal proceedings against the person furnishing the information other than proceedings for an offence equivalent to the offence specified in paragraph (b) of subsection (2) of section 195 or for an offence of perjury or any equivalent offence;
- (b) that foreign supervisory authority undertakes to contribute towards the cost of exercising the power of the Commission as the Commission considers appropriate; and
- (c) the Commission is satisfied that that foreign supervisory authority is subject to adequate legal restrictions on further disclosure of the information and documents and that the

foreign supervisory authority will not, without the written permission of the Commission,

- (i) disclose information or the content of documents provided to the foreign supervisory authority to any person other than an officer or employee of the authority engaged in the exercise of any of the supervisory functions of the foreign supervisory authority; or
- (ii) take any action on information or documents provided to the foreign supervisory authority.

Protection of Confidential Information

Restrictions on disclosure of information

192. (1) Subject to section 193, protected information shall not be disclosed by a recipient of that information, whether the recipient of the information is a person specified in subsection (4) or a person who has directly or indirectly received the protected information from a person specified in subsection (4), without the consent of

- (a) the person from whom the recipient obtained the information; and
- (b) if different, the person to whom the information relates.

(2) Information is not protected information

- (a) if the information is or has been available to the public from any other source; or
- (b) where the information is disclosed in a summary form or in statistics expressed in a manner that does not enable the identity of a particular person to whom the information relates to be determined.

(3) For the purpose of this Act, “protected information” means information which

- (a) relates to the business or other affairs of a licensee or any other person; and
- (b) is acquired by a person specified in subsection (4), for the purposes of, or in the performance of, functions of the person under this Act, Regulations or directives and is in the nature of information that is obtained from a foreign

supervisory authority, a supervisory authority in the country or a law enforcement authority.

(4) For the purposes of subsection (3), information is “protected information” if acquired by any of the following in the performance of the functions of the person under this Act, Regulations or directives:

- (a) the Commission;
- (b) a member of, or a member of a committee of the governing body of the Commission;
- (c) an employee of the Commission;
- (d) a person appointed as a skilled person under section 171;
- (e) a person appointed as an investigator under section 176;
- (f) a person acting as agent, or under the authority, of the Commission; and
- (g) an employee of a person specified in paragraphs (d) to (f).

(5) A person who contravenes this section commits an offence and is liable on summary conviction to a fine or a term of imprisonment or to both as specified in the First Schedule.

Permitted disclosure

193. Section 194 does not apply to a disclosure

- (a) by a person, where the disclosure is
 - (i) required or permitted by, and made pursuant to an order of a court;
 - (ii) required or permitted by this Act or any other enactment;
 - (iii) made to a law enforcement agency in the country; or
 - (iv) made to the Financial Intelligence Centre;
- (b) by a person specified in subsection (4) of section 192, where the disclosure is made to a person for the purpose of performing or exercising a function, duty, responsibility or power under this Act or the Regulations, in either case whether the function, duty, responsibility or power is of the person disclosing the information or of the Commission or the Board;
- (c) by the Commission
 - (i) to a relevant supervisory or law enforcement authority in accordance with section 190; or

- (ii) to help protect the public, or a section of the public, from falling victim to a crime; or
- (d) by a person, other than the Commission, where the disclosure
 - (i) is made with the written consent of the Commission; and
 - (ii) could lawfully have been made by the Commission.

Privileged information

194. (1) A person shall not be required to disclose information or produce or permit the inspection of a document under this Act if the person is entitled to refuse to disclose the information or to produce, or permit the inspection of the document on the grounds of legal professional privilege in legal proceedings.

(2) For the purposes of this section, information or a document comes to a legal representative in privileged circumstances if the information is communicated or given to the legal representative

- (a) by, or by a representative of, a client of the legal representative in connection with the giving of legal advice to the client;
- (b) by, or by the representative of, a person seeking legal advice from the legal representative; or
- (c) by a person
 - (i) in contemplation of, or in connection with, legal proceedings, and
 - (ii) for the purposes of the legal proceedings.

(3) Information or a document shall not be treated as coming to a legal representative in privileged circumstances if the information is communicated or given with a view to furthering a criminal purpose.

(4) Despite subsection (1), a legal representative may be required, pursuant to a power under this Act to provide the name and address of a client.

Admissibility of statements

195. (1) Subject to subsection (2), a statement made
- (a) by a person in compliance with a notice given by the Commission under section 166,
 - (b) to an interviewer conducting an interview under section 172,

- (c) in compliance with a request made by the examiner, to the Court under section 174, or
- (d) to an investigator appointed under section 176 or paragraph (e) of subsection (1) of section 190,

is admissible in evidence in any proceedings, if the statement also complies with any requirements governing the admissibility of evidence in the circumstances in question.

(2) A statement made by a person in compliance with a requirement imposed by this Act may only be used in evidence against the person in criminal proceedings if

- (a) the person has introduced the statement in evidence; or
- (b) the prosecution of the person relates to
 - (i) a failure or refusal by that person to produce documents or give assistance in accordance with this Act;
 - (ii) an omission by that person to disclose a material fact which should have been disclosed or the provision by that person of false or misleading information; or
 - (iii) an untruthful statement by that person.

Regulatory Powers

Protection for disclosure

196. A person who, in accordance with this Act, the Regulations and directives, discloses information or produces documents is not in contravention of any enactment, agreement or professional code of conduct to which that person is subject and civil, criminal or disciplinary proceedings shall not lie against that person in respect of the disclosure.

Regulations

197. (1) The Minister may, in consultation with the Board, by legislative instrument, make Regulations for carrying out or giving effect to this Act.

- (2) Without limiting subsection (1), the Regulations may
 - (a) provide for matters that materially impact on third party rights;

- (b) provide for matters that impose obligations or duties on the Commission;
 - (c) provide for matters that relate to group life insurance;
 - (d) increase or decrease the minimum percentage of Ghanaian ownership that an insurance broker is required to have under subsection (2) of section 110;
 - (e) provide for the notice to be given to a person to be investigated under section 176;
 - (f) provide for the methodology for the conduct of an investigation;
 - (g) provide for the payment of remuneration to an investigator;
 - (h) provide for the termination of appointment of an investigator appointed under section 176;
 - (i) specify the procedure for lodging complaints by customers against a licensee to the Commission for mediation;
 - (j) provide that only specified categories or description of customers are entitled to make complaints to the Commission under this section;
 - (k) specify the circumstances under which complaints may be referred to the Commission;
 - (l) provide for the fees payable to an expert in respect of proceedings for the mediation of complaints;
 - (m) exempt a specified person from the requirement to obtain an insurance intermediaries licence;
 - (n) provide for application for an innovative licence;
 - (o) provide qualifications of persons who may hold an innovative licence;
 - (p) provide for the operations of holders of innovative licences; and
 - (q) prescribe contracts of insurance or classes or descriptions of contracts of insurance that are exempt from subsection (1) of section 255.
- (3) The Regulations may, for the purpose of compulsory insurance,
- (a) prescribe the
 - (i) terms and conditions; and

- (ii) provisions;
that shall not be contained in a qualifying employer liability insurance; and
- (b) provide for the form and content, display and inspection of certificates of compulsory insurance issued under this Act.

(4) For the purpose of paragraph (1) of subsection (2), “expert” means a professional engaged by the Commission for the purpose of a particular mediation.

Directives

198. (1) The Commission shall issue directives specifying or providing for

- (a) classes of insurance business, separating the classes between long term and short term business;
- (b) the strategies, policies, procedures and controls to be established and maintained by licensed insurers and licensed reinsurers, including internal controls, risk management and compliance;
- (c) requirements relating to business conduct, including requirements relating to the disclosure by licensed insurers and licensed reinsurers of information to their customers and the public;
- (d) information to be provided and returns to be submitted to the Commission by licensed insurers and licensed reinsurers; and
- (e) such other matters, as are required by this Act or the Regulations, to be provided for in directives.

(2) Without limiting subsection (1), the directives may specify or provide for

- (a) the responsibilities of the directors and senior management of licensed insurers and licensed reinsurers;
- (b) the performance of the control functions of licensed insurers and licensed reinsurers and the activities and responsibilities of key persons in control functions;
- (c) policies and procedures to be maintained by licensed insurers and licensed reinsurers with respect to the assessment and management of risk;
- (d) principles and rules of corporate governance to be adhered to by licensed insurers and licensed reinsurers;

- (e) internal audit requirements;
- (f) internationally recognised accounting standards to be adopted by licensed insurers and licensed reinsurers;
- (g) circumstances in which prior notice is to be given of new insurance products;
- (h) requirements relating to insurance contracts;
- (i) procedures for approval of new insurance contracts and the circumstances in which products can be submitted on a file and use basis;
- (j) circumstances in which approval is required for premium methodologies and rates;
- (k) outsourcing of insurance activities;
- (l) reinsurance and fronting arrangements;
- (m) the development and sale of index-based insurance contracts and inclusive insurance contracts, including micro insurance contracts;
- (n) the preparation of, and requirements relating to, business plans;
- (o) measures for the detection, prevention, remedial and reporting of financial crime;
- (p) complaints made against licensed insurers and licensed reinsurers;
- (q) the supervision by the Commission of insurance groups and non-insurance groups, including group governance and internal controls;
- (r) coinsurance and insurance pools;
- (s) insurance database;
- (t) mobile insurance; and
- (u) such other matters that are required by this Act or Regulations to be provided for in the directives.

Directives for insurance intermediaries

199. (1) The Commission shall issue directives for insurance intermediaries specifying or providing for

- (a) the strategies, policies, procedures and controls to be established and maintained by licensed insurance intermediaries, including internal controls, risk management and compliance;
- (b) requirements relating to business conduct, including requirements relating to the disclosure by licensed insurance

intermediaries of information to their customers and the public;

- (c) the handling of premiums and client moneys;
- (d) information to be provided and returns to be submitted to the Commission by licensed insurance intermediaries; and
- (e) such other matters as are required by this Act or the Regulations to be provided for in the Insurance Intermediaries Directives.

(2) Without limiting subsection (1), directives for insurance intermediaries may specify or provide for

- (a) the responsibilities of the directors and senior management of licensed insurance intermediaries;
- (b) the performance of the functions of licensed insurance intermediaries and the activities and responsibilities of key persons in control functions;
- (c) principles and rules of corporate governance to be adhered to by licensed insurance intermediaries;
- (d) the requirements for and preparation of business plans;
- (e) measures for the detection, prevention, remedial and reporting of financial crime;
- (f) requirements relating to the disclosure by licensed insurance intermediaries of information to their customers and the public;
- (g) complaints made against licensed insurance intermediaries;
- (h) the distribution of index-based insurance contracts and inclusive insurance contracts, including micro insurance contracts; and
- (i) such other matters as are permitted by this Act or the Regulations to be provided for in the Insurance Intermediaries Directives.

General provisions relating to directives

200. (1) The directives may

- (a) make different provisions with respect to persons, cases or circumstances of different descriptions;
- (b) include such transitional provisions as the Commission considers necessary or expedient; and
- (c) come into operation on such date or dates specified in the directive.

(2) The Commission may amend, substitute or revoke the directives.

Guidelines

201. (1) The Commission may issue Guidelines

- (a) on the criteria to determine fit and proper persons to perform specific roles or functions under the Act;
- (b) to facilitate compliance by a licensee with the Act and the Regulations;
- (c) to combat money laundering and terrorist financing activities; and
- (d) on any other matters related to the functions of the Commission.

(2) The Guidelines may make provision for different persons, circumstances or cases.

(3) Where a licensed insurer or licensed reinsurer or licensed insurance intermediary fails to comply with the Guidelines issued under this section, the Commission may take into account the failure in determining whether there has been a contravention of this Act or the Regulations.

International standards and best practice

202. In discharging the functions of, and exercising the powers of the Commission, the Commission shall take into account

- (a) international standards and best practice relating to the regulation and supervision of insurance companies and insurance intermediaries; and
- (b) the proportionate application of the international standards taking into consideration the stage of development of the insurance market.

Approved forms

203. (1) The Commission may approve forms for the purposes of this Act, the Regulations, the directives and the Guidelines.

(2) Without limiting subsection (1), a form may be approved in relation to

- (a) an application, return or report or any other document required or permitted to be submitted to the Commission by or on behalf of a licensee;
- (b) any document required to be submitted to the Commission, by or on behalf of a person carrying out any function in relation to a licensee; or

- (c) any document required or permitted to be issued or published by or on behalf of a licensee, or a person carrying out any function in relation to a licensee, to
 - (i) customers or prospective customers of a licensee,
 - (ii) creditors of the licensee; or
 - (iii) the public.
- (3) Where the Commission has published an approved form with respect to a document, that document shall
 - (a) be in that form and contain the information specified in the approved form; and
 - (b) have attached to it such documents as may be specified in the approved form.

Requirement to consult

204. (1) The Commission shall, before issuing, amending, revoking or substituting the Regulations, Guidelines or approved forms,

- (a) provide persons that the Commission considers will be substantially affected, with a copy of
 - (i) existing Regulations for the purposes of insurance, insurance intermediaries, the Guidelines or approved forms; or
 - (ii) the proposed amendment to the Regulations for the purpose of insurance, insurance intermediaries, the Guidelines or approved form;
- (b) give persons referred to in paragraph (a), a reasonable opportunity to make written representations to the Commission; and
- (c) consider the written representation submitted to the Commission under paragraph (b).

(2) The Commission may comply with obligations under paragraph (a) of subsection (1) by consulting with any professional or trade association of which the person referred to in paragraph (a) is a member.

Publication of Guidelines and approved forms

205. The Commission shall publish the Guidelines or an approved form or an amendment to the Guidelines or approved form on the website of the Commission.

Protection of Commission, Board, Staff and Agents

Immunity

206. (1) A person to whom subsection (2) applies is not liable to any action, claim, suit or demand whether criminal or civil in respect of anything done or omitted to be done by that person in good faith in the performance of or purported performance of a function, duty, responsibility or power under this Act, the Regulations, directives and Guidelines unless it is proved that the act or omission was in bad faith.

(2) Subsection (1) applies to

- (a) the Commission;
- (b) a Board member or a member of a committee of the Board;
- (c) an employee of the Commission;
- (d) a person authorised by the Commission to perform any function, discharge any duty, or exercise any power, on behalf of the Commission; and
- (e) an agent of the Commission.

(3) A person is not liable to civil, criminal or disciplinary proceedings by reason solely of the fact that the person has provided information or produced documents to the Commission pursuant to a notice issued by the Commission under section 166.

Mediation of Complaints

Procedure for complaints

207. (1) Subject to Regulations made under section 197, a customer may make a complaint to the Commission for mediation if

- (a) the complaint relates to a licensable activity undertaken by, or offered to be undertaken by a licensee; and
- (b) the person has a right or interest in relation to the respective licensable activity.

(2) The Commission shall establish procedures for the mediation of complaints as may be submitted to the Commission in accordance with Regulations made under section 197.

Court proceedings

208. (1) If an application is made to a Court in relation to an act or omission, or alleged act or omission of a licensee and a complaint relating to the same act or omission is, or has been, submitted to the Commission under procedures established under section 207, the Court may adjourn the application subject to the terms the Court considers appropriate, pending the determination by the Commission of the complaint.

(2) The utilisation of the complaint procedures by a customer of a licensee does not affect any application that a customer or a licensee may make to a Court in respect of the matter complained of, whether before or after the Commission has made a determination under the procedures.

Inclusive Insurance and Index Insurance

Sale of microinsurance by unlicensed insurance agents

209. The Regulations may exempt a specified person from the requirement to obtain an insurance intermediary licence to act as an insurance agent in relation to the distribution and sale of inclusive insurance contracts, including microinsurance contracts.

Index insurance contract

210. (1) An index insurance contract is an insurance contract under which

- (a) the liability of the insurer to make a payment in respect of a stated insured risk is triggered by an index;
- (b) the amount of the payment is determined in accordance with, one or more indexes, rather than on an assessment of the actual loss of the insured; and
- (c) payment is designed to provide a level of compensation, although not necessarily an indemnity, to the insured in respect of any of the following:
 - (i) losses, including consequential losses, that the insured is expected to suffer; or
 - (ii) costs, including mitigation costs, that the insured is expected to incur,

as a result of the occurrence of the insured risk.

(2) An index insurance contract may include terms which provide for the amount of the payment to an insured to be determined by

- (a) the index that triggers the liability to pay;
- (b) another index; or
- (c) an assessment or other estimation of adverse impact.

(3) An index insurance contract may be designed to trigger payment by the insurer before the occurrence of the insured risk, where the payment is designed, at least in part, to compensate the insured for meeting the costs of preparing for, and mitigating the effect of, the insured risk.

(4) For the purposes of this Act, the following are not considered index insurance contracts:

- (a) life insurance contracts or annuities;
- (b) investment linked contracts under which the value of an investment is determined in whole or in part by reference to a financial index or an index of asset values; or
- (c) any other types of insurance or other contract that may be prescribed by Regulations.

Innovative Insurers and Innovative Insurance Intermediaries

Innovative insurance licence

211. (1) Subject to subsection (2), this Act applies to

- (a) an application for an innovative insurance licence as if the application was for a licence for an insurer or a licence for a reinsurer as the case may be; and
- (b) an innovative insurer or an innovative reinsurer as if the innovative insurer or innovative reinsurer was a licensed insurer or a licensed reinsurer, as the case may be.

(2) An innovative insurance licence shall be granted for a period not exceeding two years in aggregate.

(3) The Commission may, on the application of the holder of the licence, extend the period of an innovative insurance licence for a period of not more than two years in aggregate.

Innovative insurance intermediary licence

212. (1) Subject to subsection (2), this Act applies to

- (a) an application for an innovative insurance intermediary licence as if the application was for an insurance intermediary licence in the appropriate category; and
- (b) an innovative insurance intermediary as if the innovative insurance intermediary was a licensed insurance intermediary in the appropriate category.

(2) Subject to subsection (3), an innovative insurance intermediary licence shall be granted for a period not exceeding two years.

(3) The Commission may, on the application of the holder of an innovative insurance intermediary licence extend the period of an innovative insurance intermediary licence for a period of not more than two years in aggregate.

Criteria for grant of an innovative licence

213. (1) The Commission shall not grant an innovative licence to an applicant unless the Commission determines that

(a) the applicant is capable of using a new or different technological or innovative measure

(i) to carry on the proposed innovative insurance business or

(ii) to provide products or services;

(b) customers of the applicant have been or, by the time that the business commences will be, adequately protected; and

(c) the grant of the innovative licence will not materially impact on the ability of the Commission to supervise the licensee.

(2) In considering the protection of customers, the Commission shall have regard to the sophistication of the customers, or potential customers.

(3) The Commission shall grant an innovative licence subject to such conditions as the Commission considers appropriate.

*Public Liability Insurance***Requirement to insure and maintain public liability insurance**

214. (1) A person of a class, type or description specified in the Second Schedule shall insure and maintain an insurance under any qualifying public liability insurance contract with a licensed insurer.

(2) If a person takes out and maintains two or more public liability insurance contracts, the insurance contracts, taken together, shall meet the requirements with respect to the minimum amount of public liability insurance required by the Regulations.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine or a term of imprisonment or to both as specified in the First Schedule.

Scope of cover of public liability insurance

215. A public liability insurance contract shall provide indemnity for the insured person against

(a) the liability of the person to another person for bodily injury or property damage that occurs during the policy term that arises out of or in connection with the business, activity or operations of the insured; and

- (b) the legal and other costs connected with investigating, defending and settling a claim in relation to a liability specified in paragraph (a).

Professional Indemnity Insurance

Requirement to insure and maintain professional indemnity insurance

216. (1) An employer of a professional person specified in the Second Schedule shall insure and maintain an insurance under any qualifying professional indemnity insurance contract with a licensed insurer for the professional person.

(2) If the employer or another person takes out and maintains two or more professional indemnity insurance contracts, the insurance contracts, taken together, shall comply with the Regulations with respect to the minimum amount of professional indemnity insurance required.

(3) An employer that contravenes subsection (1) commits an offence and is liable on summary conviction to a fine or a term of imprisonment or to both as specified in the First Schedule.

Scope of cover of a professional indemnity insurance

217. A professional indemnity insurance contract shall, indemnify the insured professional against

- (a) the liability of the professional person for loss or damage caused to another person where the claim arises from
 - (i) a negligent act, error or omission, a negligent misstatement or misrepresentation or a breach of a duty of care in connection with the carrying on by the person of the business;
 - (ii) the dishonesty of the employees of the insured professional or persons engaged under a contract for services and, in the case of a body corporate, the directors of the body corporate; or
 - (iii) the loss and theft of documents and data, including the cost of replacement, the reinstatement of data and the increased cost of working;
- (b) the legal and other costs connected with defending a claim referred to in paragraph (a); and
- (c) the cost of investigating and settling such a claim.

*Insurance of Commercial Buildings***Requirement to insure commercial buildings**

218. (1) A person who constructs or causes to be constructed a commercial building specified in the Second Schedule shall insure and maintain insurance under any qualifying commercial building insurance contract with a licensed insurer.

(2) The occupier or owner of a commercial building shall insure and maintain an insurance under any qualifying commercial building insurance contract with a licensed insurer.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine or a term of imprisonment or to both as specified in the First Schedule.

Scope of cover of commercial building insurance contracts

219. (1) A commercial building insurance contract shall provide with respect to

- (a) a commercial building under construction
 - (i) an indemnity against liability for loss or damage caused to a person where the claim arises from the negligence of, or a breach of a duty of care by the owner, the building contractor or any employee or agent of, or consultant to, the building contractor in connection with the construction of the building;
 - (ii) the legal and other costs connected with defending a claim referred to in subparagraph (i); and
 - (iii) the cost of investigating and settling such a claim; and
- (b) any commercial building
 - (i) an insurance cover against the hazards of collapse, fire, earthquake, storm and flood; and
 - (ii) an indemnity against the liability of the owner or occupier of the commercial building for loss or damage caused to any person using the premises.

*Compulsory Insurance Contracts***Requirements relating to compulsory insurance contracts**

220. (1) A compulsory insurance contract shall

- (a) except in exceptional cases be for a period of twelve months; and

- (b) provide cover and include terms and conditions that may be required by the Regulations.
- (2) A compulsory insurance contract that provides an indemnity against the liability of the insured person to another person, shall not
 - (a) contain any term or condition that excludes or limits the liability of the insurer, whether generally or in respect of a particular claim, if anything is done or omitted to be done after the occurrence of the event that gives rise to a claim under the policy; and
 - (b) require the insured person to pay to a person to whom the insured person is liable, the first amount of any claim or aggregation of claims.
- (3) Despite paragraph (b) of subsection (2), a compulsory insurance contract may require the insured person to pay or make a contribution to the insurer in respect of
 - (a) the satisfaction of any claim made under the contract of insurance; or
 - (b) any cost or expense incurred in relation to the claim.
- (4) The exceptional cases referred to in subsection (1) shall be prescribed by Regulations.
- (5) Any term or condition in a qualifying compulsory insurance contract that contravenes subsection (1) or (2) is void and of no effect.

Insurance for risk arising in Ghana

221. (1) A person shall not, unless authorised by the Commission, enter into a contract of insurance with an insurance company not licensed under this Act in respect of

- (a) a property situate in the country;
- (b) liability arising in the country; or
- (c) goods other than personal effects being imported into the country.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine or a term of imprisonment or to both as specified in the First Schedule.

(3) Nothing in this section affects the validity or enforceability of a contract of insurance entered into in contravention of this provision.

Marine insurance

222. (1) A person who imports goods, other than personal effects, into the country shall insure the goods with an insurer licensed under this Act.

(2) A person shall not place any marine cargo or hull business, other than reinsurance business, with an insurer who is not licensed under this Act, except with the prior written approval of the Commission.

(3) For the purposes of subsections (1) and (2), a letter of credit or similar document issued by a bank or financial institution

(a) in the country, in respect of the goods being imported into the country, shall be on prime cost, insurance and freight with the insurance taken from an insurer licensed under this Act; or

(b) outside the country, in respect of the goods being imported into the country, shall be on cost and freight.

(4) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine or a term of imprisonment or to both as specified in the First Schedule.

Fire Control Fund

Establishment of Fire Control Fund

223. There is established by this Act, the Fire Control Fund.

Object of the Fire Control Fund

224. The object of the Fire Control Fund is to provide financial resources to

(a) state institutions to fight fire; and

(b) any other organisation the Commission may determine for the purposes of fighting fire.

Sources of money for the Fire Control Fund

225. (1) The sources of moneys for the Fire Control Fund include a percentage of gross premiums specified by the Commission in consultation with the recognised insurance industry trade bodies.

(2) A licensed insurer that fails to pay the contribution required under subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

(3) For the purpose of subsection (1), a licensed insurer shall pay, on an annual basis, the percentage of gross premiums on any insurance contract that the licensed insurer issues in respect of all insurance contracts that provide an insurance cover against the risk of fire.

Fire Control Fund Committee

226. (1) Without limiting subsection (1) of section 15, there is established by this Act a Fire Control Fund Committee comprising representatives of

- (a) the Commission;
- (b) the Ghana National Fire Service; and
- (c) the insurance regulated entities that contribute to the Fire Control Fund.

(2) The Commission shall appoint one of the members of the committee as the chairperson of the Fire Control Fund Committee.

(3) The functions of the Fire Control Fund Committee are to advise the Commission on

- (a) the management of the Fire Control Fund; and
- (b) the disbursement of moneys from the Fire Control Fund.

(4) The Fire Control Fund Committee is an advisory committee.

(5) The Fire Control Fund Committee shall determine the procedure for meetings of the Committee.

Management of the Fire Control Fund

227. (1) The Commission shall manage the Fire Control Fund on the advice of the Fire Control Fund Committee in accordance with procedures specified in the Regulations.

(2) The Commission shall, in consultation with the Fire Control Fund Committee, specify conditions for the disbursement of moneys from the Fire Control Fund.

Motor Compensation Fund

Establishment of the Motor Compensation Fund

228. There is established by this Act the Motor Compensation Fund.

Object of the Motor Compensation Fund

229. The object of the Motor Compensation Fund is to compensate persons who suffer injury or the dependants of a person who dies through a motor accident and who are unable to obtain compensation from an insurance company.

Sources of money for the Motor Compensation Fund

230. (1) The Commission shall, in consultation with the recognised insurance industry trade bodies, allocate a percentage of the motor contributions received by the Commission on every sticker issued by a licensed insurer to an insured, for payment into the Motor Compensation Fund.

(2) A licensed insurer that fails to pay the motor contribution to the Commission is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Motor Compensation Fund Committee

231. (1) Without limiting subsection (1) of section 15, there is established by this Act a Motor Compensation Fund Committee comprising representatives of the Commission and representatives of the insurance regulated entities that contribute to the Fund.

(2) The Commission shall appoint one of the members of the committee as the chairperson of the Motor Compensation Fund Committee.

(3) The Motor Compensation Fund Committee shall advise the Commission on the management and disbursement of moneys from the Motor Compensation Fund.

(4) The Motor Compensation Fund Committee is an advisory committee.

(5) The Motor Compensation Fund Committee shall determine the procedure for meetings of the Committee.

Management of the Motor Compensation Fund

232. The Commission shall, in consultation with the Motor Compensation Fund Committee, manage the Motor Compensation Fund in accordance with procedures as may be specified in the Regulations.

Emergency treatment for road traffic accident victims

233. A percentage of the motor insurance premium jointly agreed by

- (a) the Commission,
- (b) insurers authorised to carry on motor business, and
- (c) the National Health Insurance Authority,

shall be paid by insurers, into the National Health Insurance Fund to cover the cost of emergency treatment of road traffic crash victims.

Conditions for making payments from the Motor Compensation Fund

234. The Commission shall, in consultation with the recognised insurance industry trade bodies, specify in writing the conditions for making payments from the Motor Compensation Fund.

Client Rescue Fund

Establishment of Client Rescue Fund

235. There is established by this Act the Client Rescue Fund.

Object of the Client Rescue Fund

236. The object of the Client Rescue Fund is to compensate policyholders of insurers and reinsurers, that are wound up as insolvent.

Sources of money for the Client Rescue Fund

237. (1) A licensed insurer and a licensed reinsurer is required to pay to the Commission, each year, a contribution to the Client Rescue Fund, calculated in accordance with subsection (2).

(2) The Commission shall, in consultation with the recognised insurance industry trade bodies, specify the contribution that a licensed insurer or a licensed reinsurer is required to pay into the Client Rescue Fund.

(3) A licensed insurer or a licensed reinsurer that fails to pay the contribution required under subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Client Rescue Fund Committee

238. (1) Without limiting subsection (1) of section 15, there is established by this Act the Client Rescue Fund Committee comprising representatives of the Commission and representatives of the insurance regulated entities that contribute to the Client Rescue Fund.

(2) The Commission shall appoint one of the members of the committee as the chairperson of the Client Rescue Fund Committee.

(3) The Client Rescue Fund Committee shall advise the Commission on the

(a) management of the Client Rescue Fund; and

(b) disbursement of moneys from the Client Rescue Fund.

(4) The Client Rescue Fund Committee is an advisory committee.

(5) The Client Rescue Fund Committee shall determine the procedure for meetings of the Committee.

Management of the Client Rescue Fund

239. (1) The Commission shall manage the Client Rescue Fund in consultation with the Client Rescue Fund Committee and in accordance with the procedures as may be specified in the Regulations.

(2) The Commission shall, in consultation with the Client Rescue Fund Committee, specify conditions in writing for the making of payments from the Client Rescue Fund.

Insurance Education Fund

Establishment of the Insurance Education Fund

240. There is established by this Act the Insurance Education Fund.

Object of the Insurance Education Fund

241. The objects of the Insurance Education Fund are to provide financial support to

- (a) the Ghana Insurance College for training persons working in the insurance industry, particularly in the areas of competence and ethics; and
- (b) educate Ghanaians on insurance matters through the Commission, the Ghana Insurance College and any other relevant institution.

Sources of money for the Insurance Education Fund

242. (1) A licensed insurer and a licensed reinsurer shall pay to the Commission, each year, a contribution to the Insurance Education Fund.

(2) The Commission shall, in consultation with the recognised insurance industry trade bodies, specify the contribution that a licensee is required to pay into the Insurance Education Fund.

(3) The Insurance Education Fund may receive contributions from funding agencies and any other source approved by the Commission.

(4) A licensed insurer that fails to pay the contribution required under subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Insurance Education Fund Committee

243. (1) Without limiting subsection (1) of section 15, there is established by this Act the Insurance Education Fund Committee comprising representatives of the Commission and representatives of the insurance regulated entities that contribute to the Fund.

(2) The Commission shall appoint one of the committee members as the chairperson of the Insurance Education Fund Committee.

(3) The functions of the Insurance Education Fund Committee are to advise the Commission on the

- (a) management of moneys; and

(b) disbursement of moneys from the Insurance Education Fund.

(4) The Insurance Education Fund Committee is an advisory Committee.

(5) The Insurance Education Fund Committee shall determine the procedure for meetings of the Committee.

Management of the Insurance Education Fund

244. The Commission shall manage the Insurance Education Fund including contributions to the Fund.

Agricultural Insurance Fund

Establishment of the Agricultural Insurance Fund

245. There is established by this Act, the Agricultural Insurance Fund.

Object of the Agricultural Insurance Fund

246. The objects of the Agricultural Insurance Fund are to provide financial resources

- (a) to subsidise agricultural insurance premiums;
- (b) to train agricultural extension officers and other persons who are required to disseminate information on agricultural insurance to farmers;
- (c) for the acquisition of equipment for relevant agencies that may generate the data required in the development of agricultural insurance products;
- (d) to build capacity of state institutions to provide consistent and reliable data for the development of insurance products;
- (e) to invest in technology to disseminate information on agricultural insurance to farmers; and
- (f) for any other activity related to the development of agricultural insurance.

Sources of money for the Agricultural Insurance Fund

247. The sources of money for the Agricultural Insurance Fund are

- (a) moneys approved by Parliament;
- (b) contributions from licensed insurers and licensed reinsurers; and
- (c) contributions from the Commission.

Agricultural Insurance Fund Committee

248. (1) Without limiting subsection (1) of section 15, there is established by this Act an Agricultural Insurance Fund Committee comprising

- (a) two representatives of the Ministry responsible for Finance not below the rank of a Director;
- (b) two representatives of the Ministry responsible for Agriculture not below the rank of a Director;
- (c) three representatives of the Commission; and
- (d) two representatives of the insurance industry.

(2) The Commission shall appoint one of the members of the Agricultural Insurance Fund Committee as the chairperson of the Agricultural Insurance Fund Committee.

(3) The Agricultural Insurance Fund Committee shall formulate a management strategy for the Agricultural Insurance Fund.

(4) The Agricultural Insurance Fund Committee shall determine the procedure for meetings of the Agricultural Insurance Fund Committee.

Management of the Agricultural Insurance Fund

249. The Agricultural Insurance Fund Committee shall manage the Agricultural Insurance Fund in consultation with the Commission.

*Miscellaneous Provisions***Accounts, audit and annual report**

250. Sections 34 and 35 apply to the Fire Control Fund, the Motor Compensation Fund, the Client Rescue Fund, the Insurance Education Fund and the Agricultural Insurance Fund with the necessary modifications.

Misleading advertisements and statements

251. (1) A person shall not, in the course of an activity that constitutes a licensable business,

- (a) whether or not that activity is carried on by that person or the activity is one that that person is licensed to carry on
 - (i) issue, or cause or permit to be issued, a policy summary, advertisement, brochure or similar document, or
 - (ii) cause or permit to be made, a statement, promise or forecast,

which that person knows, in a material particular is false or misleading or contains an incorrect statement of fact;

- (b) make, or cause or permit to be made, a statement, promise or forecast, where the person is reckless as to whether the statement, promise or forecast, in a material particular
 - (i) is false or misleading; or
 - (ii) contains an incorrect statement of fact;
- (c) dishonestly conceal a material fact, whether in connection with a policy summary, advertisement, brochure or similar document, statement, promise or forecast, or otherwise.

(2) A person who contravenes subsection (1) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

(3) If the Commission is of the opinion that a policy summary, advertisement, brochure or other similar document issued, or to be issued, or a statement, promise or forecast made, or to be made, by or on behalf of a licensee contravenes subsection (1) or is contrary to the public interest, the Commission may

- (a) direct the licensee in writing,
 - (i) not to issue the document,
 - (ii) not to make the statement, promise or forecast, or
 - (iii) to withdraw the statement, promise or forecast; or
- (b) grant written approval to the licensee to issue the document, or make the statement, promise or forecast, with the changes that the Commission may approve.

(4) A person who contravenes this section commits an offence and is liable on summary conviction to a fine or a term of imprisonment or to both as specified in the First Schedule.

False or misleading representations, statements, reports or returns

252. (1) A person shall not make or aid in making an oral or written representation, statement, report or return,

- (a) that is required or permitted by this Act or the Regulations to be made to or, in the case of a document, submitted to the Commission; and
- (b) that contains a false statement of a material fact or that omits to state a material fact required to be provided to the Commission or necessary to avoid the statement or document being materially misleading.

(2) A person does not contravene subsection (1) if that person proves that that person did not know and, with the exercise of reasonable diligence, could not have known that the representation or statement contained a false statement or omitted a material fact.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine or a term of imprisonment or to both as specified in the First Schedule.

Other penalties

253. Where the licensee contravenes a provision of this Act in respect of anti-money laundering or counter financing of terrorism for three consecutive times, the Commission may, in addition to the imposition of the penalties specified in the First Schedule,

- (a) blacklist the anti-money laundering reporting officer from working with any licensee for not less than one year;
- (b) sanction the senior management, the anti-money laundering reporting officer or any other officer of the licensee who is responsible for the contravention;
- (c) publish the name of the licensee in the media;
- (d) refuse to license new products of the licensee; or
- (e) revoke the licence of the licensee.

Appeal to court

254. A person aggrieved by a decision of the Commission may, within thirty days after the date of the decision, appeal to the Court.

Avoidance of contracts of insurance of unlimited amount

255. (1) Subject to subsection (2), a contract of insurance entered into by an insurer after the commencement date, is void if it is a contract under which the insurer undertakes a liability the amount, or maximum amount, of which is uncertain at the time when the contract is entered into.

(2) This section applies to motor insurance contracts despite anything to the contrary in the Motor Vehicles (Third Party Insurance) Act, 1958 (No. 42).

(3) The Commission, in consultation with the insurance industry shall, by directives, prescribe a formula to compute the compensation in respect of injury and deceased claims arising out of a motor accident.

Minimum premium rates and maximum levels of commission or remuneration

256. (1) The Commission may, by written notice, specify

- (a) minimum premium rates; and
- (b) maximum levels of commission or other remuneration

for specified classes or sub-classes of insurance business or for insurance contracts of a specified type or description.

(2) Any minimum premium rate specified under paragraph (a) of subsection (1) shall apply to all licensed insurers.

(3) Any maximum level of commission or other remuneration specified under paragraph (b) of subsection (1) shall apply to all licensed insurance intermediaries or to a specific type or description of a licensed insurance intermediary, as specified by the Commission in the notice.

(4) If a minimum premium rate specified by the Commission under paragraph (a) of subsection (1) applies to an insurance contract offered by a licensed insurer, the insurer shall not enter into, or agree to enter into, the contract for a premium rate lower than the specified minimum.

(5) If a maximum level of commission or other remuneration is specified by the Commission under paragraph (b) of subsection (1), a licensed insurer shall not pay a level of commission or other remuneration that exceeds the specified maximum.

(6) A licensed insurer that contravenes subsection (4) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

(7) A licensed insurer that contravenes subsection (5) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

(8) A licensed insurance intermediary that contributes to the contravention of subsection (4) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

(9) A licensed insurance intermediary that contributes to the contravention of subsection (5) is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Insurance database

257. (1) The Commission shall establish a database on insurance products for the purpose of developing, regulating and supervising the insurance industry.

(2) The Commission shall keep the database in accordance with the relevant enactments.

(3) For the purposes of subsection (1), the Commission shall issue directives to specify the information that the insurance regulated entities shall provide to the Commission.

(4) A person who fails to comply with a directive issued under subsection (3) shall be liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Payment of premium

258. (1) An insurance regulated entity shall not issue an insurance policy to a policyholder on credit.

(2) A person who fails to pay the premium on an insurance product shall have no cover in respect of the insurance risk.

(3) An insurer licensed under this Act shall record as income only premiums that have been paid on insurance products.

(4) An insurance regulated entity that contravenes subsection (1), is liable to pay to the Commission an administrative penalty as specified in the First Schedule.

Interpretation

259. In this Act, unless the context otherwise requires,

“annuities” means the payment stream that is received under an annuity contract;

“annuity contract” means a contract under which the annuity provider, in consideration for a sum of money or other assets, agrees to make guaranteed fixed or variable periodic payments, at some future time, to an annuitant, or to one or more beneficiaries, for the lifetime of the annuitant or beneficiary or for such shorter period as is stated in the contract;

“anti-money laundering reporting officer” means a compliance officer of an insurance company who oversees the implementation of the anti-money laundering and counter financing of terrorism framework of the insurance company;

“appointed actuary” means a person appointed as an actuary of a licensed insurer under subsection (1) of section 79;

- “approved bank” has the meaning assigned to it under subsection (6) of section 68;
- “bancassurance” means an arrangement between a licensed bank and a licensed insurer by which the bank distributes an insurance product of the insurer to customers of the bank through an arrangement under which the bank acts as an agent for the insurer;
- “Board” means the governing body of the Commission established under section 6;
- “capital component” means a form of capital that is eligible for inclusion in the capital resources of a licensed insurer;
- “carrying on unlicensed business” means carrying on any licensable activity without
 - (a) a licence that authorises that type of licensable activity, or
 - (b) the benefit of an exemption provided for in this Act or any other enactment;
- “cedant” means a person entitled as a beneficiary to a payment under a reinsurance contract;
- “class” means a group of persons, insurers, insurance regulated entities or insurance products with similar characteristics;
- “coinsurance contract” means a contract between multiple insurance companies in which
 - (a) the risk is spread among multiple insurance companies; and
 - (b) the insured is aware of the companies that have taken on the risk of that insured;
- “commercial building” means a building or space, including a building occupied by the Government or a public institution
 - (a) to which members of the public have ingress and egress; and
 - (b) which is used for
 - (i) business or commerce;
 - (ii) the provision of services, including educational and medical services;
 - (iii) government or public administration; or
 - (iv) any other purpose specified in the Regulations;

- “commercial building insurance contract” means a contract that meets the requirements of sections 218 and 219;
- “Commissioner” means the Commissioner of Insurance appointed under section 18 of this Act;
- “Commission” means the National Insurance Commission established under section 1;
- “compulsory insurance contract” includes
- (a) a qualifying commercial building insurance contract,
 - (b) a qualifying employer’s liability insurance contract,
 - (c) a qualifying professional indemnity insurance contract,
 - (d) a qualifying public liability insurance contract;
 - (e) a qualifying group life insurance contract;
 - (f) a qualifying marine insurance contract; and
 - (g) a qualifying motor insurance contract;
- “connected person” means a person who is connected to another person
- (a) in the circumstance where both parties are companies which fall within the same group of companies whether as subsidiary companies or a parent and a subsidiary;
 - (b) in the circumstance where both parties have a common significant owner; and
 - (c) in any other circumstances specified in the directives or Regulations, including circumstances arising from
 - (i) ownership;
 - (ii) employment or office;
 - (iii) partnership; or
 - (iv) a family relationship;
- “control” means the circumstance where a person has significant influence on another entity as defined in the directives or the Regulations;
- “control function” means
- (a) in relation to a licensed insurer, a function specified in section 77;
 - (b) in relation to a corporate insurance intermediary, a function specified in section 134;

“corporate insurance agent” means an insurance agent that is a company;

“corporate insurance intermediary” means

(a) a licensed insurance broker, a licensed insurance loss adjuster, a licensed technical service provider or a licensed insurance syndicate manager; or

(b) a licensed insurance agent, a licensed insurance loss assessor or a licensed micro insurance agent

that is a company;

“correspondent agent” means an international financial institution that acts on behalf of an insurance regulated entity in a given transaction;

“Court” means a court of competent jurisdiction;

“customer” means

(a) in the case of a licensed insurer, a policyholder of the insurer or a beneficiary under an insurance contract entered into by the insurer, as insurer; or

(b) in the case of a licensed insurance intermediary, a person, whether resident in or outside the country, to whom the insurance intermediary provides, agrees to provide or has provided a service for which a licence is required;

“Deputy Commissioner” means Deputy Commissioner of Insurance appointed under section 21 of this Act;

“direct insurance business” means the business of undertaking liability as an insurer under a direct insurance contract;

“direct insurance contract” means an insurance contract that is not a reinsurance contract;

“directives” mean instructions given by the Commission to an entire class of licensees such as insurers, reinsurers or insurance brokers;

“directions” mean instructions given by the Commission to a particular licensee;

“director”, in relation to an undertaking, means a person appointed to direct the affairs of the undertaking and includes

(a) a person who is a member of the governing body of the undertaking; and

(b) a person who, in relation to the undertaking, occupies the position of director, by whatever name called;

“distribution” has the meaning assigned in subsection (3) of section 66;

“employee” means a person who has entered into or is working under a contract of service or apprenticeship with an employer, whether

- (a) skilled or unskilled, and
- (b) the contract is expressed or implied, oral or in writing;

“employer” means

- (a) the Government;
- (b) a body corporate or unincorporated;
- (c) the legal personal representative of a deceased employer;
- (d) a person who enters into a contract of service or apprenticeship to temporarily hire another person; or
- (e) a person who employs another person for the purpose of this Act;

“external actuary”, in relation to an insurer, means an actuary who is not an employee of the insurer;

“financial condition report” means the document used to document the solvency of an insurance company based on the financial status of the insurance company and the assessment of the ability of that company to handle future risks including poor economic conditions;

“Financial Intelligence Centre” means the Centre established under section 4 of the Anti-Money Laundering Act, 2020 (Act 1044);

“financial statements” has the meaning specified in section 153;

“fit and proper person” means a person suitable to hold a specific position based on

- (a) the competency and capability of the person,
- (b) the honesty and integrity of the person,
- (c) the financial soundness of the person,
- (d) the educational and professional qualification of the person, and
- (e) any other relevant criteria as determined by the Commission;

“foreign insurer” means a person who carries on insurance business and is incorporated in a jurisdiction outside the country including an underwriter who is a member of a recognised association of underwriters;

“foreign reinsurer” means a reinsurer that is incorporated or constituted in a jurisdiction outside the country

(a) the primary business of which is the business of entering into reinsurance contracts, as reinsurer; and

(b) which does not carry on a significant amount of direct insurance business as a percentage of the premium income of that reinsurer;

“foreign supervisory authority” means an authority in a jurisdiction outside the country which performs

(a) functions similar to those performed by the Commission; or

(b) a function that, in the opinion of the Commission, relates to the regulation or supervision of financial services;

“Ghana Insurance College” means the institution established by the Commission and the insurance industry to train persons in the insurance industry;

“group” means an undertaking together with any undertaking that is

(a) a subsidiary of the undertaking;

(b) a parent of the undertaking;

(c) a subsidiary of a parent of the undertaking;

(d) a parent of a subsidiary of the undertaking; or

(e) an undertaking in which the undertaking or any undertaking specified in paragraphs (a) to (d) has a qualifying participating interest within the meaning of the directives;

“home country” means the country within which the headquarters of a company is situate;

“inclusive insurance contract” means the product which is targeted at a segment of the population and is usually under served by insurance as defined in the Regulations;

“index-based insurance contract” means an insurance contract

- (a) under which the liability of the insurer to make a payment to the policyholder, and the amount of that payment, is determined in accordance with one or more indexes, rather than on an assessment of the actual loss of the policyholder; and
- (b) where the payment is designed to provide a level of compensation, although not necessarily an indemnity, to the policyholder in respect of any of the following:
 - (i) losses, including consequential losses, that the policyholder is expected to suffer, or
 - (ii) costs, including mitigation costs, that the policyholder is expected to incur,in the event that payment is triggered by the index;

“innovative insurance business” means an insurance business that uses new financial technology or any other innovative technology or method in insurance business including the

- (a) development of an insurance product,
- (b) use of data,
- (c) underwriting,
- (d) pricing of risk, and
- (e) distribution of an insurance product;

“innovative insurance intermediary” means an insurance intermediary that uses financial technology or any other innovative technology or method in the business of the insurance intermediary;

“insolvent” means

- (a) in the case of a licensed insurer or any other insurer, the licensed insurer or other insurer
 - (i) does not meet the minimum solvency control level specified in the directives; or
 - (ii) is unable to pay the debts or other liabilities of the insurer as those debts and liabilities fall due for payment; or
- (b) in the case of a licensed insurance intermediary or any other person, the licensed insurance intermediary or other person
 - (i) has liabilities that in value exceed the value of the assets of that licensed insurance intermediary or other person; or

- (ii) is unable to pay the debts or other liabilities of the licensed insurance intermediary or other person as those debts and liabilities fall due for payment;

“insurance agent”

- (a) includes a person appointed and authorised by an insurer to
 - (i) solicit applications for insurance,
 - (ii) negotiate for an insurance business on behalf of the insurer, or
 - (iii) perform any other function of an agent, assigned to the person by the insurer,
- (b) does not include an individual who is a salaried employee of the insurer;

“insurance agent licence” means a licence issued to a person who intends to sell insurance on behalf of an insurer;

“insurance broker” means a person who acts as an independent contractor or consultant for commission or other compensation, and not being an agent of the insurer, carries out any of the following activities:

- (a) soliciting or negotiating of insurance business, including the renewal and continuance of the business, on behalf of an insured person or a prospective insured person other than the consultant or contractor,
- (b) bringing together, either directly or through the agency of a third party, with a view to the insurance of risks, of persons seeking insurance and insurers and carrying out work preparatory to the conclusion of contracts of insurance, or
- (c) the provision of advice to customers concerning the insurance requirements of the customer; and
- (d) includes a reinsurance broker;

“insurance business” means the business of undertaking the liability as an insurer or a reinsurer under an insurance or reinsurance contract;

“insurance contract” means

- (a) a contract under which the insurer, in exchange for a premium, agrees with the policyholder, to make a

payment, or provide a benefit, to the policyholder or another person on the occurrence of a specified uncertain event, the occurrence of which will be adverse to the interests of the policyholder; or

- (b) an investment-linked contract;
- (c) an annuity contract,
- (d) a reinsurance contract; and
- (e) an index-based insurance contract;

“insurance industry trade bodies” means the associations with a direct or indirect interest in the insurance industry which are formed by a segment of the insurance industry players to represent the greater good of the members;

“insurance intermediary” includes

- (a) an insurance broker;
- (b) a reinsurance broker;
- (c) an insurance agent;
- (d) a bancassurance agent
- (e) an insurance loss adjuster;
- (f) an insurance loss assessor;
- (g) a technical service provider;
- (h) a micro insurance agent;
- (i) an insurance investigator;
- (j) an innovative insurance intermediary;
- (k) an insurance syndicate manager;
- (l) a third-party cell captive provider; and
- (m) any other category as may be specified in the Regulations;

“insurance intermediary licence” means a licence issued under section 112;

“insurance loss adjuster” means a person who, for commission or other compensation, including a salary, investigates and negotiates the settlement of claims, under an insurance contract solely, on behalf of either the insurer or the insured person but does not include

- (a) an individual who is an employee of an insurer or an insurance agent while acting on behalf of the insurer or insurance agent; or
- (b) an insurance agent who is authorised to settle claims on behalf of the insurer for whom the insurance agent acts as agent;

- “insurance loss assessor” means a person who is appointed by a policyholder to oversee a claim on behalf of the policyholder;
- “insurance market” means all persons who
- (a) carry on insurance business;
 - (b) act as insurance intermediaries; or
 - (c) undertake activities ancillary to insurance business or to the business of an insurance intermediary;
- “insurance licence” means a licence issued under section 43;
- “insurance penetration” means the ratio of gross insurance premium written in a given year to the Gross Domestic Product in that year;
- “insurance pool” means an association between two or more insurers, the objective of which is the sharing of insurance risk, established either on a solely contractual basis or through a separate legal entity;
- “insurance regulated entity” means an insurance company, a reinsurance company and an insurance intermediary;
- “insurance syndicate manager” means a body corporate that is licensed to operate and manage an insurance syndicate;
- “interest” includes a legal and a beneficial interest;
- “investment-linked contract” has the meaning assigned to it in the Regulations and directives;
- “key person” means an employee or director of a company the performance of whose functions is vital to the profitability and success of that company;
- “key person in a control function” means an individual appointed by a licensed insurer, a licensed reinsurer or a licensed insurance intermediary required to undertake or have responsibility for and oversee a control function;
- “law enforcement authority” means a person in or outside the country that has functions to prevent or detect crime;
- “licensable activity” means any business or activity for which a licence is required under this Act;
- “licensed bank” means a bank licensed by the Bank of Ghana under the Banks and Specialised Deposit Taking Institutions Act, 2016 (Act 930);
- “licensed broker” means a person who holds a licence in the category of an insurance broker or reinsurance broker;
- “licensed insurance agent” means a person who holds an insurance intermediary licence as an insurance agent;

- “licensed insurance intermediary” means a person who holds an insurance intermediary licence;
- “licensed insurer” means a person who holds an insurance licence that authorises that person to carry on direct insurance business;
- “licensed reinsurer” means a person who holds a reinsurer licence that authorises the person to carry on reinsurance business;
- “licensee” means a licensed insurer, licensed reinsurer or a licensed insurance intermediary;
- “long term business” means insurance business of a class specified in the Regulations as long term business;
- “long term insurer” means a licensed insurer whose licence authorises that licensed insurer to carry on long term business;
- “low income person” means a person having an income determined to be low by the Ghana Statistical Service;
- “microinsurance agent” means a person who acts as an insurance agent with respect to microinsurance contracts;
- “microinsurance contract” means an insurance product that
- (a) is designed to meet the needs of low income persons;
 - (b) is marketed to low income persons or specific description of low income persons in a particular geographical area;
 - (c) the premium charged under the product is affordable to low income persons; and
 - (d) is accessible to low income persons.
- “Minister” means the Minister responsible for Finance;
- “motor contribution” means a contribution paid to the Commission, by an insurer that sells a motor insurance policy;
- “motor contributor” means a licensee that makes a motor contribution to the Commission;
- “parent” in relation to a company means an undertaking, being the “first undertaking”, and is the parent of another undertaking, being the “second undertaking”, if the first undertaking
- (a) holds a majority of the shares in the second undertaking;
 - (b) holds a majority of the voting rights in the second undertaking;

- (c) is a member of the second undertaking and, whether alone or under an agreement with other members of the second undertaking
 - (i) is entitled to exercise a majority of the voting rights in the second undertaking; or
 - (ii) has the right to appoint or remove a majority of the board of directors of the second undertaking;
 - (d) has the right to exercise a dominant influence and control over the second undertaking through a provision in the constituting documents of the second undertaking or through a contractual provision;
 - (e) has the power to exercise, or actually exercises, dominant influence or control over the second undertaking; or
 - (f) is a parent of a parent of the second undertaking;
- “policyholder” includes a person entitled, as beneficiary, to a payment under an insurance contract;
- “premium” means the consideration payable under an insurance contract by the policyholder to the insurer;
- “professional indemnity insurance contract” means a contract that complies with the requirements of sections 216 and 217;
- “public liability insurance contract” means a contract that complies with the requirements of sections 214 and 215;
- “qualifying foreign reinsurer” means a foreign reinsurer that meets the requirements specified in the directives;
- “recognised association of underwriters” means an organisation which provides reinsurance and insurance facilities;
- “recognised insurance industry trade bodies” means various associations with direct or indirect interest in the insurance industry formed by a segment of insurance industry players;
- “Regulations” means the Regulations made under this Act;
- “reinsurance broker” means a person who acts as an insurance broker in relation to a reinsurance business and reinsurance contract;
- “reinsurance business” means the business of undertaking a liability as a reinsurer under a reinsurance contract;
- “reinsurance contract” means an insurance contract under which a reinsurer indemnifies an insurer against any loss on one or more contracts of insurance entered into by the insurer;

“restricted insurance contract” means all insurance policies that cover risks arising from

- (a) properties situate in the country;
- (b) liabilities arising in the country; or
- (c) goods, other than personal effects, being imported into the country;

“retrocession contract” means an insurance contract under which a reinsurer indemnifies another reinsurer against any loss on one or more reinsurance contracts entered into by the other reinsurer;”

“relevant company” has the meaning specified in section 146;

“reporting licensee” means a licensed insurer or a corporate insurance intermediary;

“senior management” in respect of a licensed insurer or licensed reinsurer, means

- (a) the senior managers of the insurer collectively; or
- (b) the senior managers who have responsibility for particular functions;

“senior management function” means the work of an employee who, not having responsibility for a control function,

- (a) acts as chief executive officer of the licensee or occupies an equivalent position under a different name;
- (b) holds a position that requires that employee to be answerable to the directors of the licensee;
- (c) has responsibility, alone or jointly with others, for a key function; or
- (d) has a responsibility that includes the direct involvement in the management or decision-making process of the licensee at a senior level;

“senior manager”, in relation to licensee, means an individual employed under a contract of service with the licensee who is appointed to undertake, or have responsibility for, one or more senior management or key functions;

“share” includes any ownership interest in an undertaking;

“short term business” means an insurance business of a class specified in the Regulations;

- “short term insurer” means a licensed insurer whose licence authorises that insurer to carry on a short term business;
- “significant owner” means a person who exercises control over an undertaking;
- “solvency control level” has the meaning assigned to the term in the directives and the Regulations;
- “specified accounting standards” mean the internationally recognised standards specified in a directive issued by the Commission;
- “subsidiary” means an undertaking being the “first undertaking” is the subsidiary of another undertaking being the “second undertaking”, if the second undertaking is the parent of the “first undertaking”;
- “suspicious transaction” means a transaction that appears to involve or to be connected to unlawful activity;
- “systemic risk” means a risk of disruption in the financial system with the potential to have serious negative consequences for the financial system and the real economy;
- “technical service provider” means a person that offers support for the provision of insurance services including
- (a) product development services;
 - (b) underwriting policies;
 - (c) distributing policies;
 - (d) administration of policies including premium collection and customer services; and
 - (e) administration of claims; and
- “third party cell provider” means a body corporate that is licensed to operate and manage a third party cell captive;
- “undertaking” means
- (a) a company;
 - (b) a partnership;
 - (c) an unincorporated association; or
 - (d) any other entity determined by the Commission.

Repeal and savings

260. (1) The Insurance Act, 2006 (Act 724) is repealed.

(2) Despite the repeal of Act 724, Regulations, notices, orders, directions, appointments, guidelines or any other act lawfully made or done under the repealed enactment not being inconsistent with this Act and in force before the coming into force of this Act shall continue in

force as if made or done under this Act and shall continue to have effect until reviewed, cancelled, withdrawn or terminated.

(3) This Act shall not affect Act 724 in the operation of offences committed, penalties imposed or proceedings commenced before the coming into force of this Act.

Transitional provisions

261. (1) A person who, before the coming into force of this Act, holds a valid licence as an insurance broker, insurance agent or micro insurance agent shall, within two months of the coming into force of this Act, notify the Commission of this fact.

(2) The Commission shall, within one month of the receipt of the notification under subsection (1), verify the licence.

(3) Despite subsections (1) and (2), a licence acquired by an insurance broker, an insurance agent or a micro insurance agent under Act 724 shall remain valid until the licence expires.

(4) The assets, rights and liabilities of the Commission established under Act 724 and immediately before the coming into force of this Act are transferred to the Commission established under this Act, and accordingly proceedings taken by or against the Commission established under Act 724 may be continued by or against the Commission established under this Act.

(5) A person in the employment of the Commission established under Act 724 immediately before the coming into force of this Act shall, on the coming into force of this Act, be deemed to have been duly employed by the Commission established under this Act on terms and conditions which are not less favourable in aggregate to the terms and conditions attached to the post held by the person before the coming into force of this Act.

(6) A contract subsisting between the Commission established under Act 724 and any other person and in force immediately before the coming into force of this Act shall subsist between the Commission established under this Act and that other person.

(7) Any moneys held by or on behalf of the Commission established under Act 724 immediately before the coming into force of this Act are transferred to the Commission established under this Act.

FIRST SCHEDULE

(sections 8(3), 36(3), 38(3), 40(9), 52(4), 54(6), 55(5), 56(5), 56(6), 57(2), 59(5), 60(3), 61(3), 62(2), 63(2), 65(2), 66(2), 67(5), 68(7), 72(4), 73(3), 74(6), 75(4), 77(4), 78(4), 79(9), 81(3), 82(4), 83(8), 84(3), 85(3), 109(4), 122(4), 122(5), 124(6), 125(5), 126(5), 126(6), 127(2), 129(2), 130(3), 131(3), 131(4), 132(4), 133(2), 134(4), 135(4), 136(2), 137(2), 138(3), 140(3), 141(2), 142(3), 145(3), 151(5), 154(6), 155(2), 156(3), 157(3), 159(8), 162(6), 165(2), 166(6), 167(6), 169(2), 171(5), 171(6), 176(7), 178(3), 179(3), 180(2), 185(4), 186(4), 188(2), 192(5), 214(3), 216(3), 218(2), 221(2), 222(4), 225(2), 230(2), 237(3), 242(4), 251(2), 251(4), 252(3), 253, 256(6), (7), (8) and (9), 257(4) and 258(4))

TABLE OF OFFENCES AND PENALTIES

1. A person who commits an offence specified in the second column of the table is liable on summary conviction to
 - (a) the fine corresponding to the offence as specified in the fifth and seventh columns of the table;
 - (b) the custodial sentence corresponding to the offence as specified in the sixth column of the table; or
 - (c) both the fine and the custodial sentence as indicated in the table.
2. A person who contravenes a provision as indicated in the second column of the table is liable to pay to the Commission the administrative penalty specified in the third or fourth column of the table.

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6	COLUMN 7
Section creating the offence	General nature of the offence or contravention	Penalty (Corporate body)	Penalty (individuals)	Penalty for Continuing Contravention	Imprisonment	Fine
8(3)	Failure of a member of the Board to perform duties expected				Not less than three years and not more than six years	Not less than three thousand penalty units and not more than seven thousand and five hundred penalty units
36(3)	Carrying on or purporting to carry on insurance business without a licence				Not less than two years and not more than five years	Not less than twenty five thousand penalty units and not more than fifty thousand penalty units
38(3)	Entering into a restricted insurance contract with a foreign insurer without lawful authorisation from the Commission		Fifty Thousand Penalty Units			

40(9)	Licensee carrying on insurance business contrary to the category or class of licence	Five Thousand Penalty Units				
52(4)	Failure to seek required approval for change in significant ownership or level of control	Five Thousand Penalty Units	Five Thousand Penalty Units			
54(6)	Failure to comply with the requirements of disposal of interest or prohibit the exercise of rights		Five Thousand Penalty Units			
55(5)	Appointing a director, senior manager or key person in a control function without the prior written approval of the Commission in accordance with subsection (1)	One Thousand Penalty Units				

55(5)	Failure to provide written notice to the Commission in accordance with subsection (3)	Five Hundred Penalty Units					
56(5)	Acceptance of an appointment contrary to the direction issued under subsection (1)		Five Hundred Penalty Units				
56(6)	Failure to comply with the direction issued in accordance with subsection (1)	Five Thousand Penalty Units					
57(2)	Failure to notify the Commission of information that is reasonably material to the fit and proper assessment of a person as required under subsection (1)	Five Thousand Penalty Units					

59(5)	Failure to meet requirements on stated capital.	One Thousand Penalty Units					
60(3)	Failure of a licensed insurer or a licensed reinsurer to maintain capital resources, in accordance with the directives	One Thousand Penalty Units					
60(3)	Failure to maintain adequate procedures and controls to monitor and assess capital resources and capital requirement.	One Thousand Penalty Units					
61(3)	Failure of a licensed insurer or licensed reinsurer to comply with a direction issued by the Commission in accordance with section 61(1).	Two Thousand Penalty Units					

62(2)	Failure to establish and maintain segregated funds as required by the directives.	Two Thousand Penalty Units				
63(2)	Failure to notify the Commission of likely failure to comply with requirement, under section 58, 59, 60 or 62.	One Thousand Penalty Units				
65(2)	Issuing shares for a consideration other than cash without the written approval of the Commission.	Two Thousand Penalty Units				
66(2)	Failure to comply with requirement for distribution by licensed insurer or licensed reinsurer	Two Thousand Penalty Units				

67(5)	Carrying out a transaction specified under subsection (1) without giving the Commission written notice.	Five Thousand Penalty Units					
68(7)	Failure of insurer or reinsurer to make statutory deposit.	One Thousand Penalty Units					
72(4)	Failure of insurer or reinsurer to establish and maintain reinsurance or retrocession strategy, procedures and plan.	One Thousand Penalty Units					
73(3)	Failure to obtain prior written authorisation from the Commission before entering into a reinsurance contract.	One Thousand Penalty Units					

74(6)	Failure of insurer or reinsurer to establish and maintain governance framework as required under subsection (1)	One Thousand Penalty Units				
74(6)	Failure of insurer or reinsurer to establish and maintain strategies, policies, and controls as required under subsection (2)	One Thousand Penalty Units				
74(6)	Failure of insurer or reinsurer to establish and maintain strategies, policies, and controls as specified in the directive	One Thousand Penalty Units				
74(6)	Failure of insurer or reinsurer to maintain up to date written record of governance framework	One Thousand Penalty Units				

75(4)	Failure of insurer or reinsurer to have adequate number and structure of directors as required under subsection (1)	One Thousand Penalty Units				
75(4)	Failure of insurer or reinsurer to ensure that the directors have sufficient powers as required under subsection (2)	One Thousand Penalty Units				
77(4)	Failure of insurer or reinsurer to establish and maintain control functions as required under subsection (1)	One Thousand Penalty Units				
77(4)	Failure of insurer or reinsurer to ensure that a control function is provided with authority, independence and resources as required under paragraph (a) of subsection (2)	One Thousand Penalty Units				

77(4)	Failure of insurer or reinsurer to appoint individuals to undertake responsibilities of each of the control functions as required under paragraph (b) of subsection (2)	One Thousand Penalty Units				
77(4)	Outsourcing a control function without the permission from the Commission as required under subsection (3)	Two Thousand Penalty Units				
78(4)	Failure of insurer or reinsurer to establish and maintain risk management strategies and policies	One Thousand Penalty Units				
79(9)	Failure to comply with requirement for the appointment of appointed actuary	One Thousand Penalty Units				

81(3)	Failure of insurer or reinsurer to notify the Commission in writing as required under subsection (1)	One Thousand Penalty Units				
82(4)	Failure to comply with requirement for actuarial investigation and financial condition report	One Thousand Penalty Units				
83(8)	Failure to comply with requirement of reporting obligations of an appointed actuary	One Thousand Penalty Units				
84(3)	Failure of insurer or reinsurer to perform obligations for conduct of business	One Thousand Penalty Units				
85(3)	Failure to comply with restriction on transfers and mergers	Five Thousand Penalty Units				

109(4)	Carrying on business as an insurance intermediary without licence					Not less than two thousand and five hundred penalty units and not more than ten thousand penalty units
122(4)	Failure to obtain written approval from the Commission to become a significant owner of a corporate insurance intermediary	One Thousand Penalty Units				
122(5)	Permitting or acquiescing any dealing with the shares of that corporate insurance intermediary that would result in a contravention of requirement for change in significant ownership or level of control	One Thousand Penalty Units				
124(6)	Failure to comply with a notice issued on disposal of interest or prohibit exercise of rights	One Thousand Penalty Units				

125(5)	Appointing a director, senior manager or key person in a control function without the prior written approval of the Commission.	Five Hundred Penalty Units				
125(5)	Failure to provide written notice to the Commission in accordance with subsection (3)	Five Hundred Penalty Units				
126(5)	Accepting an appointment contrary to the direction of removal of a director, senior manager or key person in a control function directed at that person		Five Hundred Penalty Units			
126(6)	Failure to comply with a direction issued by the Commission on the removal of a director, senior manager or key person in a control function	One Thousand Penalty Units				

127(2)	Failure to give notice to the Commission on matters affecting the suitability of the significant owner, director, senior manager and key person in a control function	Five Hundred Penalty Units				
129(2)	Failure of licensed insurance broker, licensed insurance loss adjuster, or technical service provider to ensure that its equity is equal or exceeds the minimum capital requirement	One Thousand Penalty Units				
130(3)	Failure of licensed insurance broker, licensed insurance loss adjuster, or technical service provider to comply with a notice issued in accordance with subsection (1)	One Thousand Penalty Units				
131(3)	Failure of corporate insurance intermediary to give notice to the Commission of likely failure to comply with requirements under section 128	Five Hundred Penalty Units				

131(4)	Failure of licensed insurance broker, licensed insurance loss adjuster or a licensed technical service provider to give notice to the Commission of the likely failure to comply with requirements under section 129	Five Hundred Penalty Units					
132(4)	Failure of licensed insurance broker, licensed insurance loss adjuster or a licensed technical service provider to establish and maintain governance framework as required under subsection (1)	Five Hundred Penalty Units					
132(4)	Failure of licensed insurance broker, licensed insurance loss adjuster or a licensed technical service provider to establish and maintain strategies, policies, procedures and controls as required under subsection (2)	Five Hundred Penalty Units					
133(2)	Failure of licensed insurance broker, licensed insurance loss adjuster or a licensed technical service provider to have adequate number and structure of directors as required under this section	Five Hundred Penalty Units					

134(4)	Failure to establish and maintain control functions as required under subsection (1)	Five Hundred Penalty Units				
134(4)	Outsourcing a control function without permission from the Commission as required under subsection (2)	Five Hundred Penalty Units				
134(4)	Failure to ensure that a control function is provided with authority, independence and resources as required under subsection (3)	Five Hundred Penalty Units				
135(4)	Failure of licensed insurance broker, licensed insurance loss adjuster or a licensed insurance provider to establish and maintain risk management strategies and policies	Five Hundred Penalty Units				

136(2)	Failure of a licensed insurance intermediary to perform obligations in the conduct of business.	Five Hundred Penalty Units					
137(2)	Licensed insurance intermediary conducting business with insurer or reinsurer who does not hold licence as licensed insurer or licensed reinsurer	Five Hundred Penalty Units					
138(3)	Failure to comply with directives to provide receipt of and dealing with premiums and other insurance moneys	One Thousand Penalty Units					
140(3)	Failure to comply with directives for receipt and holding of moneys	Five Hundred Penalty Units					
141(2)	Failure to maintain the professional indemnity insurance and other insurance as specified in the directives	Five Hundred Penalty Units					

142(3)	Appointment of unlicensed insurance agents by a licensed insurer	One Thousand Penalty Units				
145(3)	Licensed insurer or reinsure conducting business with or paying commission or other remuneration to an unlicensed insurance broker	One Thousand Penalty Units				
151(5)	Failure to comply with requirements for the maintenance of financial records	One Thousand Penalty Units				
154(6)	Failure to prepare financial statements in accordance with accounting standards and in compliance with the Act	One Thousand Penalty Units				
155(2)	Failure to submit the financial statements of the reporting licensee to the Commission within the specified period	One Thousand Penalty Units	One Thousand Penalty Units for each week			
156(3)	Failure of a reporting licensee to submit periodic financial statements and returns to the Commission	One Thousand Penalty Units	Fifty Penalty units for each week			

157(3)	Failure of a reporting licensee to comply with a direction by the Commission to amend financial statements	One Thousand Penalty Units				
159(8)	Failure of a reporting licensee to appoint an auditor in accordance with requirements specified in the directives	One Thousand Penalty Units				
162(6)	Failure of an auditor or former auditor to comply with reporting obligation of the auditor	One Thousand Penalty Units				
165(2)	Failure of a relevant person to grant access to an authorized employee of the Commission undertaking an inspection	One Thousand Penalty Units				
166(6)	Failure to comply with notice to provide information or produce documents				Not less than two thousand and five hundred penalty units and not more than five thousand penalty units	
167(6)	Failure of a licensed insurer or licensed reinsurer to comply with a direction to prepare a recovery plan	One Thousand Penalty Units			Not less than three months and not more than one year	

169(2)	Failure of licensed insurer or licensed reinsurer to comply with a recovery plan	One Thousand Penalty Units				
171(5)	Failure to comply with written direction of the Commission in appointing a skilled person	One Thousand Penalty Units				
171(6)	Failure to give the needed assistance to skilled person appointed by a licensee	One Thousand Penalty Units				
176(7)	Failure to provide assistance required by an investigator appointed by the Commission				Not less than three months and not more than one year or to both	Not less than two thousand and five hundred penalty units and not more than five thousand penalty units
178(3)	Failure to comply with direction of the Commission to licensed insurer and licensed reinsurer	One Thousand Penalty Units				
179(3)	Failure to comply with direction of the Commission to licensed insurance intermediary	One Thousand Penalty Units				

180(2)	Failure by a person carrying on unlicensed business to comply with a directive.				Not less than two years and not more than five years	Not less than five thousand and five hundred penalty units and not more than fifteen thousand penalty units
185(4)	Failure of a licensed insurer, licensed reinsurer or a licensed insurance intermediary to establish, maintain and implement effective arrangements for the disclosure of the concerns of employees and directors.	Five Thousand Penalty Units				
186(4)	Failure of applicant to give the Commission written particulars of the change or of the incomplete, inaccurate or misleading information or documentation	One Thousand Penalty Units	One Thousand Penalty Units			
188(2)	Failure to comply with the requirements specified by the Commission for the submission of reports and returns by licensees	Two Thousand Penalty Units				
192(5)	Failure to comply with restrictions on disclosure of information				Not less than one year and not more than three years	Not less than two thousand and five hundred penalty units and not more than fifteen thousand penalty units

214(3)	Failure of a person specified in the second schedule to insure and maintain an insurance under any qualifying public liability insurance contract			Not less than one year and not more than five years, or to both	Not less than two thousand and five hundred penalty units and not more than five thousand penalty units
216(3)	Failure of employer specified in the second schedule to insure and maintain an insurance under any qualifying professional indemnity insurance contract			Not less than one year and not more than five years	Not less than two thousand and five hundred penalty units and not more than five thousand penalty units
218(3)	Failure of a person who constructs or causes to be constructed a commercial building specified in the second schedule to insure and maintain an insurance under any qualifying commercial building insurance contract as required under subsection (1)			Not less than one year and not more than five years	Not less than two thousand and five hundred penalty units and not more than five thousand penalty units

218(3)	Failure of an occupier or owner of a building to insure and maintain an insurance under any qualifying commercial building insurance contract as required under subsection (2)			Not less than one year and not more than five years	Not less than two thousand and five hundred penalty units and not more than five thousand penalty units
221(2)	Carrying on business with an unlicensed insurance company without authorisation from the Commission			Not less than one year and not more than three years	Not less than two thousand and five hundred penalty units and not more than fifteen thousand penalty units
222(4)	Failure to insure imported goods other than personal effects with an insurer licensed under the Act			Not less than one year and not more than three years	Not less than two thousand and five hundred penalty units and not more than fifteen thousand penalty units
222(4)	Placing marine cargo or hull business, other than reinsurance business, with an insurer who is not licensed without the prior written approval of the Commission			Not less than one year and not more than three years	Not less than two thousand and five hundred penalty units and not more than fifteen thousand penalty units

225(2)	Failure by a licensed insurer to pay contributions into the Fire Control Fund.	One Thousand Penalty Units				
230(2)	Failure by a licensed insurer to pay contributions into the Motor Compensation Fund	One Thousand Penalty Units				
237(3)	Failure by a licensed insurer or licensed reinsurer to pay contributions into the Client Rescue Fund	One Thousand Penalty Units				
242(4)	Failure by a licensed insurer or licensed reinsurer to pay contributions into the Insurance Education Fund	One Thousand Penalty Units				
251(2)	Providing false or misleading or incorrect statements	Two Thousand Penalty Units				
251(2)	Dishonestly conceal a material fact in connection with a policy summary, advertisement, brochure or similar document, statement, promise or forecast	Two Thousand Penalty Units				

251(4)	Providing misleading advertisements and statements					Not less than one year and not more than three years	Not less than two thousand and five hundred penalty units and not more than fifteen thousand penalty units
252(3)	Making , or aiding in making oral or written representation, statement, report or return that contains false statement of material facts or omits to state material facts					Not less than one year and not more than five years	Not less than two thousand and five hundred penalty units and not more than five thousand penalty units
256(6)	Entering into a contract for a premium rate lower than the specified minimum as required under subsection (6)				Five Thousand Penalty Units		
256(7)	Entering into a contract for a premium rate lower than the specified minimum as required under subsection (8)				Five Thousand Penalty Units		
256(8)	Entering into a contract for a commission rate higher than the specified minimum under subsection (7)				Five Thousand Penalty Units		

256(9)	Entering into a contract for a commission rate higher than the specified minimum under subsection (9)	Five Thousand Penalty Units				
257(4)	Failure to comply with a directive to provide information to the Commission for the purpose of developing insurance database	Two Thousand Penalty Units				
258(4)	Issuing an insurance policy to a policy holder on credit	Five thousand penalty units				

SECOND SCHEDULE*(sections 214, 216 and 218)***Classes of Persons and Properties Covered by Compulsory Insurance**

Section	Compulsory Insurance	Class of Persons / Affected Persons	Commercial Building
214	Public Liability Insurance		<ol style="list-style-type: none"> 1. Office spaces 2. Banks 3. Shopping Malls 4. Factories 5. Hospitals 6. Any other place that may be specified by Regulations
216	Professional Indemnity	<ol style="list-style-type: none"> 1. Accountants 2. Medical doctors 3. Insurance practitioners 4. Lawyers 5. Financial and investment analysts 6. Any other profession that may be specified by Regulations 	
218	Insurance of Commercial Buildings		<ol style="list-style-type: none"> 1. Office spaces 2. Shopping Malls 3. Factories 4. Hospitals 5. Any other commercial building that may be specified by Regulations
222	Marine Insurance	Persons importing goods, other than personal effects, into the country.	
255(3)	Motor Insurance	Applicable persons under the Motor Vehicles (Third Party Insurance) Act, 1958 (No. 42).	

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