

# REPRINT

## INSURANCE ACT (CAP. 82)

**As in force at: 5 February 2024**

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For details see Endnotes
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**AN ACT TO REGULATE THE BUSINESS OF INSURANCE IN SOLOMON ISLANDS BY PROVIDING FOR THE APPOINTMENT OF A CONTROLLER OF INSURANCE; TO REQUIRE INSURERS, BROKERS AND AGENTS TO REGISTER UNDER THE ACT; TO PROTECT THE RIGHTS OF POLICY HOLDERS AND TO MAKE PROVISIONS FOR OTHER MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO**

## **INSURANCE ACT (CAP. 82)**

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## PART 1 PRELIMINARY

### 1 Short title

This Act may be cited as the *Insurance Act*.

### 2 Interpretation

In this Act, unless the context otherwise requires:

**“actuary”** means:

- (a) a fellow of the Institute of Actuaries of England or of the Faculty of Actuaries of Scotland; or
- (b) such other person having actuarial knowledge as the Controller may, on the application of an insurer, approve;

**“agent”** means a person appointed and authorised to act as an intermediary between an insurer and a proposer or an insured for or in expectation of payment by way of commission, allowance, return or other remuneration for channelling, soliciting or procuring insurance business;

**“appointed date”** means the date notified by the Minister for the coming into force of this Act;

**“auditor”** means a person who is qualified to be appointed as auditor of a company under section 130 of the *Companies Act 2009*;

**“bond investment business”** means the business of insuring bonds or endorsement certificates by which the company in return for subscriptions payable at periodic intervals of less than six months, contracts to pay the bond holder a sum at a future date not being life insurance business or sinking fund or capital redemption insurance business;

**“broker”** means a person who exercises professional skill and is concerned with the placing of insurance business for or in expectation of payment by way of commission, fee, allowance, return or otherwise;

**“certified”** means certified by an agent, broker or by a duly authorised principal officer or an insurer to be true and correct, a true copy or a correct translation (as the case may be);

**“chairman”** means the person for the time being presiding over the board of directors or the governing body of an insurer;

**“Controller”** means the Controller of Insurance appointed under section 3;

**“director”** means any person occupying the position of a director of a company, by whatever name he may be called;

**“employers’ liability insurance business”** means the business of or the undertaking of liability under policies insuring employers against liability to pay compensation or damages to workmen in their employment;

**“fire insurance business”** means the business of effecting, otherwise than incidentally to some other class of insurance business, contracts of insurance against loss by or incidental to fire or other occurrence customarily included among the risks insured against in policies of fire insurance;

**“general insurance business”** means fire, marine, motor vehicle or miscellaneous insurance business whether carried on singly or in combination with one or more of them;

**“gross premium”** means the premium before deduction therefrom of any premium paid or payable by the insurer for reinsurance;

**“industrial life insurance business”** means the issue of or the undertaking of liability under policies of insurance upon human life or the granting of annuities upon human life where the insurer expressly or tacitly undertakes to send a person, to the policy holder or to his residence or place of work to collect the premium, and where premiums are payable on a weekly basis, and where the sum insured

or the amount of the annuity per annum, does not exceed such sum as may be notified in the *Gazette* by the Minister;

**“insurance business”** means:

- (a) the business of undertaking liability by way of insurance (including reinsurance) in respect of lives, or any loss or damage, including liability to pay damages or compensation contingent upon the happening of a specified event;
- (b) business relating to the continuance, renewal or revival of the business referred to in paragraph (a), and includes business incidental thereto;

**“insurer”** means any person who commences, transacts or carries on insurance business;

**“long term insurance business”** includes insurance business of all or any of the following classes, namely, ordinary life insurance business, industrial life insurance business and bond investment business and includes in relation to any insurer, business carried on by the insurer, as incidental to any such class of business;

**“long term insurance fund”** means the long term insurance fund referred to in subsection (3) of section 33;

**“marine insurance business”** means the business of effecting and carrying out otherwise than incidental to some other class of insurance business contracts of insurance:

- (a) upon vessels or machinery, tackle, or furniture or equipment on, in or upon vessels;
- (b) upon goods, merchandise, or property of any description whatever on board vessels;
- (c) upon the freight of or any other interest in or relating to vessels;
- (d) against damage arising out of or in connection with the use of vessels including third-party risks;
- (e) against transit risks (whether by sea, inland water, land, air or partly by one and partly by another) including risks incidental to

the transit insured from the commencement of the transit to the ultimate destination covered by the insurance but not including risks the insurance of which is motor vehicle insurance business; or

- (f) against any of the risks of insurance which is customarily undertaken in connection with or incidental to any such business as is referred to in the foregoing paragraphs;

**“miscellaneous insurance business”** means any insurance business other than business which is principally or wholly employers’ liability insurance business, fire insurance business, long term insurance business, marine insurance business and motor vehicle insurance business;

**“motor vehicle insurance business”** means the business of affecting contracts of insurance against loss of or damage to or arising out of or in connection with the use of motor vehicles including third-party risks;

**“mutual association”** means an incorporated association of persons which is so constituted that the whole of the divisible surplus or profit thereof must, whenever determined or declared, be apportioned or declared or applied for the benefit of the association’s policy holders or such of them as are entitled in accordance with the term of the policies or any instruments governing the constitution of the association to participate in the profits of the association;

**“net premium”** means the balance of the premium after deduction therefrom of any premium paid or payable by the insurer for reinsurance;

**“ordinary life insurance business”** means the issue of or the undertaking of liability under policies of insurance upon human life or the granting of annuities upon human life, but excluding industrial life insurance business;

**“policy”:**

- (a) in relation to ordinary life insurance business or industrial life insurance business, includes an instrument evidencing a contract to pay an annuity upon human life; and



- (b) in relation to other classes of business, includes any instrument under which there is for the time being an existing liability already accrued or under which any liability may accrue;

**“policy holder”** means the person who for the time being is the legal holder of the policy for securing the contract with the insurer and in relation to ordinary life insurance business or industrial life insurance business includes an annuitant and in relation to other classes of business includes a person to whom under any policy a sum is due or a weekly or other periodic payment is payable;

**“principal officer”** means a managing director, manager or secretary resident in Solomon Islands of an insurer or broker, or such other person resident in Solomon Islands as may be approved by the Controller;

**“principal place of business”** means the office of an insurer or broker situated in Solomon Islands for the purpose of carrying on insurance business;

**“Solomon Islands insurance business”** means insurance business commenced, transacted or carried on by an insurer in respect of any person, human life, property or interest in Solomon Islands and includes insurance business in respect of any vessel or aircraft registered or ordinarily located in Solomon Islands.

## **PART II                      ADMINISTRATION**

### **3                      Appointment of Controller of Insurance and other officers**

- (1) There may be appointed:
  - (a) a Controller of Insurance; and
  - (b) such other officers as may be necessary for the due administration of this Act.
- (2) Any appointment made under subsection (1) shall, if the person appointed is to be a public officer, be made pursuant to the *Constitution*, but otherwise shall be made by the Minister.
- (3) The Controller so appointed, shall, subject to the provisions of this

Act, and such instructions he may from time to time receive from the Minister administer this Act and perform all the functions assigned to him by or under this Act.

#### **4 Functions**

The functions of the Controller shall include the following:

- (a) the registration of insurers who transact insurance business in Solomon Islands;
- (b) the formulation of standards in the conduct of the business of insurance with which insurers, agents and brokers must comply;
- (c) advising the Minister with regard to all matters concerning insurance business;
- (d) the recommendation to the Minister of regulations necessary for the carrying out of Government policies relating to insurance;
- (e) the approval of standard terms and conditions contained in policies of insurance;
- (f) the superintendence of the conduct of agents, brokers and agencies concerned with the handling of insurance business and insurance claims;
- (g) the determination with prior approval of the Minister of the rates of insurance in respect of any class or classes of insurance;
- (h) the power to caution or prohibit insurers generally or any insurer in particular against entering into any particular transaction or class of transactions and generally give advice to any insurer; and
- (i) such other functions as the Minister may from time to time assign in the public interest.

#### **5 Information to be supplied to Controller**

- (1) The Controller may, by notice in writing, require any person to supply

him with any information or produce for his inspection any document, relating to his insurance affairs and such person shall comply with such requirement by such date or within such period as may be specified therein.

- (2) Any person who fails to comply with a notice issued under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred penalty units, and if the offence is a continuing one, to a further fine not exceeding twenty penalty units for every day after the first during which the offence has continued.

## **6 Directions to insurers, agents and brokers**

- (1) Where the Controller is satisfied that:
- (a) to prevent the affairs of any insurer, agent or broker being conducted in a manner which is detrimental or prejudicial to the interests of the insurer, agent, broker, any policy holder or the insurance industry;
  - (b) generally to secure the proper management of the affairs of any insurer, agent or broker; or
  - (c) otherwise in the public interest,

it is necessary to issue directions to insurers, agents or brokers generally or to any particular insurer, agent or broker, he may give such directions as he considers necessary to be effective from a specified date and all or any of such insurers, agents or brokers shall thereupon comply with such directions:

Provided that no such directions shall be issued to such particular insurer, agent or broker without giving a reasonable opportunity to such person to make representations to the Controller.

- (2) Without prejudice to the generality of the powers conferred by subsection (1), the Controller:
- (a) if he considers that the terms or conditions of any reinsurance treaty or other reinsurance contract entered into by an insurer are not in the public interest, may, in writing direct the insurer

either to make, at the time when the renewal of such treaty or contract next becomes due, such modification in its terms and conditions as he may specify or not to renew such treaty or contract;

- (b) if he has reason to believe that an insurer is entering into or is likely to enter into a reinsurance treaty or other reinsurance contract which he considers not favourable to the insurer or is not in the public interest, may, in writing, direct that the insurer shall not enter into such reinsurance treaty or other reinsurance contract unless a copy of such treaty or contract has been furnished to him in advance and the terms and conditions thereof have been approved by him in writing;
  - (c) shall take such action as he shall be directed in writing by the Minister for protecting policy holders or the public if the Minister considers that an insurer may be unable to meet its obligations or to fulfil the reasonable expectations of policy holders.
- (3) The Controller shall not directly or indirectly reveal to any person (other than the Minister, the Permanent Secretary or any member of the Controller's staff) the nature of the contents of, or permit any person to have access to any reinsurance treaty or any copy thereof.
- (4) Any person who fails to comply with a direction issued under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred penalty units; and if the offence is a continuing one, to a further fine of twenty penalty units for every day after the first during which the offence has continued.

## **7 Examination of insurer or documents**

- (1) The Controller may:
- (a) by notice in writing, require any insurer, agent or broker to produce for his examination and supply him with a certified copy of any document connected with his business;
  - (b) examine on oath any director or employee of an insurer, and any agent or broker or any employee of such broker or agent in relation to any such documents, and administer an oath accordingly.

- (2) Any person who fails or refuses to produce any document or any certified copy of a document or to answer any question in relation to any such document as required under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred penalty units.

## **8 Documents not to be destroyed**

- (1) Any person who has been required under paragraph (a) of subsection (1) of section 7 to produce any document for the examination of the Controller shall not destroy, damage, remove or otherwise deal with the same without the written consent of the Controller.
- (2) Any person who contravenes subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred penalty units.

## **9 Investigation**

- (1) Where the Controller:
  - (a) has reason to believe:
    - (i) that an insurer is unable to meet its obligations or has made default in complying with any of the provisions of this Act;
    - (ii) that an offence under this Act has been or is likely to be committed by an insurer or any person; or
    - (iii) that the interests of the policy holders of an insurer are otherwise in danger; or
  - (b) receives a requisition signed and supported by an affidavit by not less than twenty-five persons holding policies of life insurance in force respectively for not less than three years with an insurer and which on maturity will be for a total value of not less than the prescribed amount, that an investigation be held into the affairs of that insurer, or
  - (c) receives a requisition signed and supported by an affidavit by

not less than one-tenth of the shareholders holding not less than one-tenth of the issued share capital of an insurer, that an investigation be held into its affairs,

he may, after consultation with the Minister and after giving the insurer a reasonable opportunity of making representations, investigate or order an investigation by any person.

- (2) Where the Controller receives a written direction from the Minister to investigate the affairs of any insurer he shall carry out such investigation, and shall make a report thereon in writing to the Minister.
- (3) Where the Controller carries out any investigation, or orders or engages any person to carry out an investigation under this section he may, employ any person other than a person in the employ of an insurer for this purpose.
- (4) The Controller may before ordering an investigation upon a requisition made under paragraphs (b) and (c) of subsection (1), require the persons making the requisition to furnish security in such amount as he considers sufficient to meet the expenses that may be incurred by the insurer and by the Controller in respect of the investigation.
- (5) A report on an investigation made under subsection (1) shall be made in writing to the Controller who may, if he thinks appropriate, send copies of the same to the insurer and to the persons signing the requisition for such investigation.
- (6) The Controller may, by notice in writing, require an insurer to comply by such date or within such period as may be specified therein, with such directions as he considers necessary in connection with any matter arising out of a report made under subsection (1).
- (7) If, as a result of a report on an investigation made under subsections (1) or (2), the Controller considers that it is necessary in the interests of the policy holders that an insurer be wound up, or if the insurer fails to comply with any directions issued under subsection (6), the Controller may, after giving the insurer a reasonable opportunity of making representations, apply to the High Court for an order for the winding up of the insurer, in which case the provisions of the

*Companies Act* relating to the winding up of a company (as varied by Part VII of this Act) shall apply.

- (8) Where, after reading a report made under this section, the Controller considers that a requisition under paragraphs (b) and (c) of subsection (1) has been made without reasonable cause, he may order that the whole of any part of the amount furnished as security under subsection (4) shall be forfeited and paid to the insurer and the Controller in order to defray the respective costs incurred by them.
- (9) When an investigation is made under subsection (1) or (2) of this section, sections 178 to 187 of the Companies Act 2009 shall apply to the investigation with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Act and all expenses of and incidental to such investigation shall be defrayed by the insurer and shall have priority over the other debts due from the insured.

### **PART III                      REGISTRATION OF INSURERS**

#### **10                      Only a body corporate can carry on insurance business**

- (1) Save as otherwise provided in this Act, only a person who is a body corporate complying with the provisions of this section and is registered by the Controller shall, on or after the appointed date commence, transact or carry on any insurance business other than reinsurance business or insurance business exempted under section 11:
  - (a) in Solomon Islands, whether in respect of Solomon Islands business or otherwise, or
  - (b) outside Solomon Islands, in respect of Solomon Islands business.
- (2) Any person who commences, transacts or carries on any insurance business without having first been registered under the Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred penalty units, and if the offence is a continuing one, to a further fine of fifty penalty units for every day after the first during which the offence has continued.

- (3) Any person who, without the permission of the Controller, directly or indirectly transacts any Solomon Islands business in Solomon Islands or abroad, with or through any insurer, agent or broker who has not been registered or otherwise exempted under this Act, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred penalty units. For the purpose of this subsection “insurer” does not include a reinsurer or an insurer exempted under section 11.
- (4) Nothing in this Act shall be deemed to prohibit or otherwise render unlawful the continuance of insurance business in Solomon Islands by an insurer in so far as it is necessary to maintain without renewal a policy or contract of insurance effected or renewed by that insurer before the appointed date. So long as any liability upon such policy or contract of insurance remains unpaid or undischarged this Act shall apply to such insurer unless the Controller specifically grants exemption therefrom or from any provisions thereof.
- (5) For the avoidance of doubt it is hereby declared that the continued payment of a premium in respect of any policy relating to long term insurance business shall not constitute a renewal or revival of such policy or contract of insurance for the purpose of this section.
- (6) Where a long term insurance policy is in force on the appointed date and the insurer does not seek registration under this Act, such insurer may, with the consent of the insured:
  - (a) transfer or assign such policy to an insurer registered under this Act; or
  - (b) permit the policy to lapse or terminate the contract of insurance on the payment of any benefits due to the insured on the contract.
- (7) Where an insurance policy is transferred or assigned under paragraph (a) of subsection (6), all rights and obligations existing under such policy shall after such transfer be deemed to be that of the insurer registered in accordance with the provisions of this Act.
- (8) For the avoidance of doubt it is hereby declared that any transfer or assignment of policy or an agreement to permit the policy to lapse or terminate the policy under paragraphs (a) or (b) of subsection (6),



shall not, in any way absolve the insurer from any liability that may exist on the policy or contract of insurance at the time of such transfer or termination.

- (9) Where an insurance policy is transferred or assigned under paragraph (a) of subsection (6), the Controller may, by order direct that all or any of the provisions of Part VI of this Act shall subject to such modifications and adaptations as may be necessary apply to such transfer or assignment.

## **11 Minister may exempt certain class of insurance**

Where the Minister is satisfied that:

- (a) the existing facilities for certain class of insurance business are inadequate or that such facilities are not available in Solomon Islands; or
- (b) that it is in the public interest that a particular class of insurance be exempted;

he may subject to such terms and conditions as may be prescribed exempt such class of insurance from the provisions of this Act.

## **12 Qualification for registration**

No person other than a body corporate shall apply to be registered under this Act unless:

- (a)
  - (i) it has been incorporated in Solomon Islands under the *Companies Act 2009* and (not being a mutual association) had a paid-up capital of not less than such sum as may be prescribed; or
  - (ii) it has been registered under Part 11 of the *Companies Act 2009* and (not being a mutual association) has at the date of registration a paid-up capital equivalent in Solomon Islands currency of not less than such sum as may be prescribed; and
- (b) being a mutual association (wheresoever incorporated) has

assets in Solomon Islands the value of which is not less than such sum as may be prescribed.

### **13 Application for registration**

- (1) Every application for registration under section 10 shall be in the prescribed form and shall be accompanied by the prescribed fee.
- (2) The Controller may in writing require an applicant under this section to furnish him with such written information as he may require relating to the applicant or his insurance business and the Controller shall not proceed with the application until such information has been furnished to him.
- (3) An applicant who makes a false statement in an application for registration, or in written information furnished under subsection (2) shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding five hundred penalty units.

### **14 Registration of applicants**

Where the Controller is satisfied that:

- (a) the volume of business which is likely to be available to, and the earning prospects of an applicant are adequate;
- (b) the class of insurance business in respect of which the application is made will be conducted in accordance with sound business principles;
- (c) the financial standing and the general character of management of the applicant are sound;
- (d) the qualifications of the principal officer are adequate and the powers and functions delegated to him are sufficient to ensure a prompt and efficient service;
- (e) the margin of solvency of the applicant is adequate;
- (f) the reinsurance arrangements of the applicant are adequate and otherwise satisfactory;
- (g) it is otherwise in the public interest that the applicant should be

registered in respect of the class or classes of insurance business specified in the application,

he may, subject to such terms and conditions as he may consider necessary, register the applicant in respect of such class of business as he shall direct:

Provided that the Controller shall not register any applicant if he is directed in writing by the Minister that such applicant should not be registered in the national interest.

**15 Name of insurer**

If the name of an insurer who has been registered is identical to a name by which another insurer has already been registered, or so nearly resembles it so as to deceive, the second registered insurer shall, if directed in writing to so by the Controller and subject to the *Companies Act*, change its name within a time to be specified in such direction.

**16 Issue of certificate**

- (1) Upon the registration of an insurer, the Controller shall issue to it a certificate of registration which shall be kept at all times at the insurer's principal place of business and shall be produced upon request at any time to the Controller, or any person authorised by him for inspection.
- (2) The Controller may, on the payment of the prescribed fee, issue a duplicate certificate to replace a certificate which has been lost, destroyed or damaged or in any other case where he considers it to be necessary.

**17 Renewal of registration**

- (1) Subject to the other provisions of this Act, the registration of an insurer shall expire on the 31st day of December of the year in respect of which it is issued.
- (2) An application for the renewal of registration shall be made in writing to the Controller on or before the 30th day of September of the preceding year and shall be accompanied by the prescribed fee, but

the Controller may extend the time for making an application on payment of such additional fee not exceeding the prescribed fee as he may require.

**18 Alterations in particulars**

Whenever after registration of an insurer any circumstances arise which affect the contents of any documents or information furnished under section 13, the insurer shall forthwith furnish to the Controller full details of such circumstances.

**19 Controller may give directions**

Where the information furnished under section 18 disclose a change which, in the opinion of the Controller affects the proper conduct of the class of insurance business for which the insurer is registered under this Act, the Controller may, in consultation with the Minister, give such directions or take such action as appropriate.

**20 Refusal to register or renew registration**

Where the Controller refuses registration of an applicant or the renewal of a registration, he shall record the reasons for such decision and shall furnish a copy thereof to the applicant.

**21 Cancellation of registration**

- (1) The Controller, after giving an insurer a reasonable opportunity of making representations, may by notice in writing cancel the registration of such insurer, either totally or in respect of any particular class of insurance business as the case may be:
  - (a) if it appears to the Controller that the insurer has failed to comply with or acts in contravention of this Act other than a default mentioned in paragraphs (g) or (h) of this subsection;
  - (b) if the Controller has reason to believe that any amount due by the insurer under a judgment entered in an action in Solomon Islands arising out of any policy of insurance issued by the insurer has remained unpaid for three months after the date of the final adjudication in such action;

- (c) if the insurer carries on any business other than insurance business;
  - (d) if the Controller is satisfied that the class of business of the insurer is not being conducted in accordance with sound insurance principles;
  - (e) where, having regard to the financial aspect and volume of business transacted by the insurer, the Controller is of the opinion that such insurer cannot carry on the class of insurance business in a satisfactory and efficient manner;
  - (f) if the insurer has ceased to carry on insurance business in Solomon Islands;
  - (g) if the insurer is in liquidation or if at any time the margin of solvency prescribed by section 29 is not maintained;
  - (h) if the insurer fails to comply with the provision of Part IV of this Act relating to deposits or capital or if the deposit or capital made under that Part has been returned to the insurer as hereinafter provided;
  - (i) if the insurance business of the insurer has been transferred to any other person or amalgamated with the business of or wholly reinsured with any other person; or
  - (j) where the Minister considers it otherwise in the public interest.
- (2) Where in any case referred to in paragraphs (h) or (i) of subsection (1), the default or the return of the deposit, or the transfer, amalgamation or reinsurance relates only to one or more, but not all, of the classes of insurance business carried on by the insurer, the Controller may, upon the cancellation of the registration of the insurer re-register the insurer in respect of any class of insurance business and issue a new certificate in respect of that class of insurance business in accordance with section 14.

## **22 Further provisions regarding cancellation**

The Controller may by notice in writing cancel the registration of any insurer, either totally or in respect of any particular class of business,

if the insurer requests in writing the cancellation of the registration.

## **23 Prohibition after cancellation**

Notwithstanding the provisions of sections 20 and 21, the Minister may in writing permit an insurer whose registration has been cancelled to continue insurance business in Solomon Islands for such period as he shall specify, under the supervision of a person appointed by the Minister, in so far as the Minister considers that the continuance of such business is necessary for the maintenance of any policy or contract of insurance.

## **24 Change in the class of business**

In any case where, in accordance with the provisions of this Act, a registered insurer either ceases to transact or carry on insurance business of any class or gives notice in writing to the Controller that he wishes to commence, transact or carry on insurance business of any other class not previously undertaken the Controller may, as the circumstances of the case require:

- (a) alter or vary the certificate of registration issued to such insurer;  
or
- (b) cancel such certificate and issue a new certificate of registration:

Provided that such insurer shall not thereby be permitted to commence, transact or carry on any new class of insurance business unless:

- (a) an application has been made under section 13 to the Controller relating to the new class of insurance business;
- (b) the deposit required by section 25 in respect of the new class of insurance business has been made by the insurer and a certificate to that effect has been issued by the Controller.

## **PART IV                    DEPOSITS, CAPITAL REQUIREMENTS, MARGIN OF SOLVENCY AND INVESTMENTS**

### **25                    Deposits**

- (1) Subject to the provisions of this Act, the Central Bank of Solomon Islands (hereinafter in this Act referred to as the “Central Bank”) shall accept and deal with deposits and securities made by insurers and brokers in the manner provided in this Act.
- (2) An insurer applying for registration under this Act shall deposit with the Central Bank the prescribed sum or prescribed security in respect of each class of insurance business proposed to be commenced, transacted or carried on in Solomon Islands by the insurer, which sum or security shall be returned if the insurer’s application is not approved by the Controller.
- (3) A deposit made under this Act shall consist of cash or of any Solomon Islands Government security and the value of such security for the purposes of this Act shall be deemed to be the market value at the date when the deposit is made.
- (4) A deposit made under this Act shall be held by the Central Bank on behalf of the insurer, and any interest shall be paid to the insurer.
- (5) An insurer may at any time, with the written consent of the Controller, substitute for any deposited security any other Solomon Islands Government security having no less than equal value according to the market value at the date of such consent.
- (6) The Central Bank shall on the written application of an insurer, invest in Solomon Islands Government securities, the whole or any part of the cash received by it on the redemption of any deposited security.
- (7) An insurer may require the Central Bank to sell any deposited security and to invest the net proceeds of sale in such Solomon Islands Government security as the insurer may direct, and such new security and any uninvested proceeds of sale shall be deemed to form part of the deposit.

## **26           Reservation of deposit**

A deposit made by an insurer under this Act shall be deemed to be part of the assets of the insurer but shall not:

- (a) be capable of being transferred, assigned or encumbered with any mortgage or other charge by the insurer;
- (b) subject to section 33, be available for the discharge of any liability of the insurer other than:
  - (i) a liability arising out of a policy of long term insurance issued by the insurer in Solomon Islands; or
  - (ii) such other liability in Solomon Islands arising out of a policy of insurance (other than a policy of long term insurance) issued by the insurer as may be approved by the Minister on the recommendation of the Controller;
- (c) subject to section 33, be liable to attachment in execution of any judgment except a judgment obtained by a policy holder of the insurer in respect of a debt due upon a policy issued in Solomon Islands and which debt the policy holder has been unable to recover in any other way.

## **27           Return of deposit**

Where the Controller is satisfied that an insurer has ceased to transact or carry on in Solomon Islands any class of insurance business in respect of which it has been registered and that its liability in Solomon Islands in respect of such business has been satisfied or is otherwise provided for, the Central Bank shall on the application of an insurer and on the recommendation of the Controller, return to the insurer together with interest, such part of the deposit as, in the opinion of the Controller, is not required in respect of any other class of insurance carried on by the insurer:

Provided that no such return shall be made in relation to any class of insurance business until after the expiration of three years from the date when the last policy of insurance of that class was issued.



## **28 Local assets**

- (1) No insurer incorporated in Solomon Islands shall commence, transact or carry on insurance business unless it maintains in Solomon Islands assets of not less than the prescribed amount.
- (2) No insurer incorporated outside Solomon Islands shall commence, transact or carry on insurance business in Solomon Islands unless it maintains in Solomon Islands assets of not less than the prescribed amount.

## **29 Margin of solvency**

- (1) An insurer transacting or carrying on life insurance business shall not permit the net liability under life policies to exceed the prescribed amount.
- (2) An insurer transacting or carrying on insurance business other than life insurance business shall have assets in Solomon Islands which exceed its liabilities by the prescribed amount.
- (3) For the purpose of this Act:
  - (a) in computing the amount of the assets of an insurer, no account shall be taken of any uncalled capital or intangible asset;
  - (b) the value of the assets shall be computed at their market value or realisable value;
  - (c) in computing the amount of the liabilities of an insurer, all contingent and prospective liabilities (other than liability in respect of share capital, monies owing to Head Office, unappropriated profits and reserves not set aside for policy holders) shall be taken into account.

## **30 Ordinary life insurer not to transact other business**

No insurer carrying on ordinary life insurance business shall be entitled to be registered for any further class of insurance business unless the Controller is satisfied that the assets in Solomon Islands of the ordinary life fund of the insurer are adequate to meet all the liabilities of the insurer on policies of ordinary life insurance maturing

in due course for payment.

**31 Assets to be in the name of the insurer**

None of the assets in Solomon Islands of any insurer shall be kept otherwise than in the name of the insurer.

**32 Investment of funds**

- (1) The long term insurance fund of an insurer transacting or carrying on long term insurance business shall be invested in such classes of investments and in such proportions as may be prescribed.
- (2) The net premium income of an insurer transacting or carrying on any class of insurance business other than long term insurance business shall be invested in such class of investments and in such proportions as may be prescribed.
- (3) Subject to the provisions of subsections (1) and (2), an insurer may, with the approval of the Controller, invest the income from all other sources in other investments.

**PART V ACCOUNTS, RECORDS, RETURNS AND REPORTS**

**33 Separation of accounts and assets**

- (1) An insurer transacting or carrying on more than one of the following classes of insurance business:
  - (a) employers' liability insurance business;
  - (b) fire insurance business;
  - (c) long term insurance business;
  - (d) marine insurance business;
  - (e) miscellaneous insurance business; or
  - (f) motor insurance business,

shall keep separate accounts of all receipts and payments in respect

of each such class of insurance business.

- (2) The Controller may require an insurer transacting or carrying on any of the classes of insurance business specified in subsection (1) to keep separate accounts of all receipts and payments in respect of each subclass of such insurance business.
- (3) Where an insurer transacts or carries on long term insurance business, all moneys received in respect of each subclass thereof shall be paid into an appropriately named subfund, the subfunds to be collectively called the long term insurance fund, and the assets of each subfund shall after the expiry of six months from the appointed date be kept separate from all other assets of the insurer and of the other subfunds. A deposit made by an insurer under section 25 in respect of long term insurance business shall for the purpose of this Act be deemed to form part of the assets of the long term insurance fund. Every insurer shall within six months after the end of every calendar year, furnish to the Controller a detailed statement of the assets and liabilities comprising the long term insurance fund as at the end of that year, including any deduction on account of general reserves and other liabilities relating to its long term insurance business duly certified by an auditor:

Provided that:

- (a) a statement furnished under this subsection shall, in the case of an insurer to whom section 34 applies, be incorporated in the balance sheet mentioned in paragraph (a) of that section;
  - (b) the Controller may require production of a statement, duly certified by an auditor, of such assets of an insurer as at any other date specified by the Controller in writing to be furnished within a period of three months from the date of such requirement;
  - (c) except in the case of long term insurance business, nothing in this subsection shall require moneys belonging to one class of insurance business to be invested separately from moneys belonging to any other class of insurance business.
- (4) The long term insurance fund shall not be liable or chargeable for or in respect of any contract or transaction of the insurer other than that

of long term insurance business and shall not be applied directly or indirectly for any other purpose whatsoever.

#### **34 Accounts and balance sheet**

An insurer incorporated in Solomon Islands in respect of all insurance business wheresoever commenced, transacted or carried on, and in the case of any other insurer in respect of insurance business wheresoever commenced, transacted or carried on which constitute or constituted a liability on its insurance business in Solomon Islands, shall at the expiration of each calendar year prepare with reference to that year:

- (a) a balance sheet;
- (b) a profit and loss account; and
- (c) in respect of each class or subclass of insurance business for which the insurer is required by section 33 to keep a separate account of receipts and payments, a revenue account.

#### **35 Audit**

- (1) The balance sheet, profit and loss account, and revenue account prepared under section 34 shall be audited by an auditor.
- (2) For the purposes of an audit under this section, an auditor shall have the same functions and rights as an auditor of a company under the *Companies Act 2009*.

#### **36 Actuarial report and certificate of solvency**

- (1) An insurer shall in respect of long term insurance business commenced, transacted or carried on in Solomon Islands cause an investigation to be made by an actuary at least once in every three years into the financial affairs of such business (including a valuation of liabilities in respect of that business) and shall cause a report and a certificate of solvency to be issued signed by the actuary:

Provided that, where the Controller is not satisfied that such an investigation has been made within two years prior to the appointed date, he may direct that an investigation be made not later than one

year after the appointed date.

- (2) There shall be appended to the certificate required by subsection (1) a certificate signed by a principal officer of the insurer that full and accurate particulars of every policy under which there is a liability (either existing or contingent) have been furnished to the actuary for the purpose of the investigation.
- (3) Where an insurer transacting or carrying on insurance business (whether long term insurance business or otherwise) in Solomon Islands is incorporated by or under the law of another country and the insurer is required by the law of that country to prepare and furnish to a public authority documents which in the opinion of the Controller are of substantially the same nature as the documents required to be furnished under this section, the insurer shall, within the time specified in section 37, and in addition to the requirements of this section, furnish to the Controller two certified copies of every extract, statement, account and return supplied to such public authority.
- (4) The provisions of this section relating to long term insurance business shall also apply to any class or subclass of insurance business referred to in subsection (1) of section 33 and the Controller may authorise such modifications and variations of the requirements as may be necessary to facilitate their application to any such class or subclass:

Provided that, if the Controller is satisfied that the number and amount of the transactions carried out by an insurer in any such class or subclass is so small as to render periodic investigation and valuation unnecessary, he may exempt that insurer from the operation of this subsection in respect of that class or subclass.

### **37 Submission of returns to Controller**

- (1) Two copies of every account, balance sheet, report or statement required to be made by the foregoing provisions of this Act, signed by two directors and a principal officer of the insurer, and by the auditor who made the audit or the actuary who made the valuation (as the case may be), shall be deposited with the Controller within four months after the end of the period to which they relate; so however, the Controller may extend the period allowed for depositing

such documents by a period not exceeding two months.

- (2) Where an insurer transacting or carrying on insurance business in Solomon Islands is incorporated by or under the law of another country and subsection (3) of section 36 does not apply it shall forward to the Controller in addition to the documents mentioned in section 34, a statement certified by a principal officer showing the total assets and liabilities both in and outside Solomon Islands at the close of the period covered by the balance sheet, profit and loss account, revenue account and the valuation report and statement.

### **38 Further returns to Controller**

Every insurer shall furnish to the Controller such further returns or abstracts, or amended or substituted returns or abstracts, as may be required by the Controller.

### **39 Examination of returns by Controller**

If it appears to the Controller that any return or report furnished to him under the provisions of this Act is inaccurate or incomplete in any respect he may:

- (a) require further information, which shall be certified if he so directs, from the insurer or from such auditor or actuary or other person as he may consider necessary;
- (b) require the insurer to submit any document for his examination at its registered office, or its principal place of business in Solomon Islands or to supply any statement;
- (c) examine any officer of the insurer on oath in relation to the return or report and may administer an oath accordingly; or
- (d) decline to accept such return or report unless such further information as may be required by him is furnished within two months or within such further period as he may specify and if he declines under this paragraph to accept any return or report, the insurer shall be deemed to have failed to comply with section 37.

#### **40 Reports**

Every insurer shall furnish forthwith to the Controller a certified copy of every report on its affairs made to its shareholders or policy holders.

#### **41 Copies of reinsurance contracts**

- (1) Every insurer, shall, whenever required by the Controller, furnish the Controller with certified copies of all reinsurance documents relating to any class of business.
- (2) Certified copies of all reinsurance documents of an insurer in force on the appointed date shall be furnished to the Controller not later than three months after the registration of such insurer.

#### **42 Custody of documents**

Every return and document furnished to the Controller under this Act, or a certified copy thereof, shall be kept at the office of the Controller.

#### **43 Evidence of documents**

A document purporting to be certified by the Controller to be a copy of a document furnished to him under this Act shall in all courts within Solomon Islands be admitted as *prima facie* evidence of the original document.

#### **44 Publication of summary returns**

The Minister may cause to be published in each year in such manner as he may direct, a summary of the accounts, balance sheets, statements, and other returns furnished or purporting to be furnished under this Act to the Controller, and may append to such summary any note made by the Controller thereon.

#### **45 Publication of returns**

No insurer shall publish in Solomon Islands any return in a form other than that in which it has been furnished to the Controller; so however, nothing in this section shall prevent an insurer from publishing a true and accurate abstract from such return for the purpose of publicity.

#### **46            Limitation of management expenses**

No insurer shall in respect of its Solomon Islands business spend in any calendar year as management expenses including head office or overseas expenses, payment of commission of all kinds, and capitalised expense (but excluding reinsurance premium), an amount in excess of the prescribed limits.

### **PART VI            AMALGAMATIONS AND TRANSFERS**

#### **47            Amalgamation and transfer**

(1) Subject to the provisions of this section, where:

- (a) two or more insurers, whether registered under this Act or otherwise, intend to amalgamate; or
- (b) an insurer, whether registered under this Act or otherwise, intends to transfer insurance business of any class to another insurer, whether registered under this Act or otherwise,

the directors of any one or more of those insurers shall apply to the Controller in writing, together with:

- (i) the draft of the documents under which the proposed amalgamation or transfer is to take effect;
- (ii) balance sheets in respect of the insurance business of each of the insurers concerned in the proposed amalgamation or transfer;
- (iii) in the case of employer's liability business, or long term insurance business, actuarial reports and a report on the proposed amalgamation or transfer prepared by an actuary who has not been professionally connected with any of the insurers at any time during the five years immediately preceding the date of the report; and
- (iv) any other report on which the proposed amalgamation or transfer was founded.

(2) The documents, balance sheets, and reports mentioned in



subsection (1) shall be prepared as at the date at which the proposed amalgamation or transfer is to take effect, which date shall not be more than twelve months before the date of the application to the Controller.

- (3) Before any application is made to the Controller, notice of intention to apply shall be published in the *Gazette* and in at least one newspaper published and circulating in Solomon Islands.
- (4) The documents under which the proposed amalgamation or transfer is to take effect shall be open to inspection to policy holders of the insurers concerned for a period of fifteen days after the publication of the last of the notices referred to in subsection (3).

#### **48           Permission to amalgamate or transfer**

The Controller, after considering the documents referred to in section 47, and after receiving representation from the directors and such other persons as he considers appropriate, may approve the proposed amalgamation or transfer if he is satisfied that no sufficient objection thereto has been or can in his opinion be established.

#### **49           Statement to be deposited with controller**

Where an amalgamation or transfer has been approved the amalgamating insurers or the transferee insurer, as the case may be, shall within ten days from the date of the amalgamation or transfer, deposit with the Controller:

- (a) certified copies of statements of their respective assets and liabilities together with a statement of the nature and terms of the amalgamation or transfer;
- (b) a certified copy of the documents under which the amalgamation or transfer was effected;
- (c) certified copies of the actuarial or other reports upon which the documents were founded; and
- (d) a declaration under the hand of the Chairman and a principal officer of each insurer that to the best of their belief every payment (whether in money, policies, bonds, valuable

securities or other property) made or due to any person on account of the amalgamation or transfer has been recorded in the documents mentioned in this section, and that no other such payments have been made or are due to the knowledge of any of the parties concerned in the amalgamation or transfer.

## **PART VII            INSOLVENCY AND WINDING UP**

### **50            Voluntary liquidation**

Notwithstanding the provisions of any other written law, an insurer or a broker shall not be wound up voluntarily without the prior written authority of the Controller.

### **51            Winding up by Court**

- (1) Any winding up by the Court under the *Companies Act* of an insurer or a broker shall be subject to this Act.
- (2) For the purpose of section 18(2)(a) of the *Companies (Insolvency and Receivership) Act 2009*, an insurer shall be deemed to be unable to pay its debts if at any time the margin of solvency prescribed by section 29 of this Act is not maintained.
- (3) In addition to the circumstances set out in section 18 of the *Companies (Insolvency and Receivership) Act 2009*, an insurer or a broker may be wound up by the Court:
  - (a) if with the prior sanction or leave of the Court, a winding-up petition supported by an affidavit made by the persons signing the petition is presented to the Court signed by not less than one-tenth of the shareholders holding not less than one-tenth of the issued share capital or by not less than twenty-five persons holding policies of life insurance with an insurer, in force respectively for not less than three years and which on maturity will be for a total value of not less than the prescribed amounts under section 9(1)(b); or
  - (b) if the Controller presents a winding-up petition to the Court on grounds:
    - (i) that an insurer has failed to deposit or keep deposited any

sum required by Part IV of this Act;

- (ii) that an insurer or broker having failed to comply with any requirement of this Act has continued such failure or having contravened any provision of this Act has continued such contravention for a period of three months after notice of such failure or contravention has been conveyed to it in writing by the Controller;
- (iii) that it appears from any return or statement furnished under the provisions of this Act, or as the result of an investigation made there-under, that an insurer or broker is unable or is deemed to be unable to pay its debts or meet its obligations; or
- (iv) that he is of opinion that it is just and equitable in the interest of policy holders or in the public interest that an insurer or broker be wound up.

## **52 Valuation of assets and liabilities**

Subject to any directions which may be given by the Court, in the winding up of an insurer:

- (a) the value of the assets and liabilities of the insurer shall be ascertained in such manner and upon such basis as the liquidator thinks fit;
- (b) the liabilities of the insurer in respect of the current policies of long term insurance business, shall as far as practicable, be calculated by the method and upon the basis to be determined by an actuary appointed by the Court after consultation with the Controller.

Such actuary shall, with the approval of the Controller, in such determination, take into account:

- (i) the purpose for which the valuation is to be made;
- (ii) the rates of interest, taxation and of mortality and sickness to be used; and

- (iii) any special directions which may be given to him by the court after consultation with the Controller;
- (c) the liabilities of the insurer in respect of the current policies of general insurance business shall as far as practicable, be such portion of the last premium paid as is proportionate to the unexpired portion of the policy in respect of which the premium was paid.

### **53        Reduction of contracts**

- (1) In the case of an insurer unable to pay its debts, the Court may, instead of making an order for winding up, order the reduction of the amount of the current policies of the insurer upon such terms and subject to such conditions as the Court considers appropriate.
- (2) For the purpose of a reduction under subsection (1), the value of the assets and liabilities of the insurer and all claims in respect of policies issued by the insurer shall be ascertained in the manner set out in paragraphs (b) or (c) of section 52, whichever is appropriate.
- (3) An application to the Court for an order under this section may be made either by the liquidator, the insurer, a policy holder or the Controller, and any person whom the Court considers has an interest in the application shall be entitled to be heard thereon.

## **PART VIII        AGENTS AND BROKERS**

### **54        Agents and brokers**

- (1) Subject to the provisions of subsection (2), no person shall commence, transact or carry on business as an insurance agent or broker unless:
  - (a) he is licensed in accordance with the provisions of section 56; and
  - (b) in the case of a broker has deposited with the Central Bank the prescribed sum or security, which shall be returned if the broker's application is not approved by the Controller.
- (2) Nothing in subsection (1) or the provisions of any other law shall

affect any person who immediately prior to the commencement of the Act had acted in Solomon Islands as an insurance agent or broker and within three months after such commencement applies for a licence and is so licensed by the Controller under this Act.

- (3) The Controller shall notify in the *Gazette* within one year of the appointed date or as soon as practicable thereafter, and at intervals of not more than every one year thereafter, a list of agents and brokers licensed under this Act.
- (4) A person may with the approval of the Controller on payment of the prescribed fee inspect the list of agents or brokers licensed under this Act.
- (5) Where any person who is not licensed under this Act commences, transacts or carries on business as an agent or broker such person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two hundred and fifty penalty units and if the offence is a continuing one to a further fine not exceeding twenty penalty units for every day after the first during which the offence has continued.

## **55            Application for licence**

- (1) An application for a licence or for a renewal thereof as an insurance agent or insurance broker shall be made to the Controller by any person having the prescribed qualification on the prescribed form and shall be accompanied by the prescribed fee.
- (2) The Controller shall refuse to grant a licence to a person who has:
  - (a) in terms of any enactment in force in any other country:
    - (i) been adjudged insolvent or bankrupt and has not been rehabilitated or discharged, or
    - (ii) made assignment or an arrangement or composition with creditors which has been rescinded or set aside; or
  - (b) been convicted by a Court in any country of an offence involving dishonesty, and appeal against the conviction has not been brought or having been brought, was withdrawn or dismissed.

- (3) The Controller may in writing require an applicant to furnish him with such written information as he may consider necessary relating to the applicant's business as an agent or broker.
- (4) An applicant who makes a false statement in an application for a licence or for a renewal thereof, or in the written information furnished under subsection (3), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred penalty units.

## **56 Issue of licence**

Where the Controller is satisfied on an application made under section 55 that:

- (a) the applicant has sufficient experience in and knowledge of insurance matters;
- (b) the financial standing and general character of management of the applicant are sound;
- (c) the qualifications of the principal officer are adequate and the power and functions delegated to him are sufficient to ensure a prompt and efficient service; and
- (d) it is otherwise in the public interest that a licence or a renewal thereof should be granted to the applicant,

he may, subject to such terms and conditions as he may consider necessary and subject to other provisions of this Act, issue to him a licence, or a renewal thereof, to expire on the 31st day of December of the year in respect of which it is issued:

Provided that no application for the renewal of a licence shall be made more than one year from the date of the expiry of that licence.

- (2) Where the Controller refuses to issue a licence or a renewal thereof, he shall record the reasons for such decision and shall furnish a copy thereof to the applicant.
- (3) Every licence issued by the Controller under this section shall be kept at all times at the agent's or broker's principal place of business and shall be produced by him at any time for inspection to, or to any

person authorised by the Controller.

- (4) The Controller may on payment of the prescribed fee, issue a duplicate licence in place of a licence which has been lost, destroyed or damaged or in any other circumstances where he considers it to be necessary.

## **57 Revocation of licence**

- (1) The Controller may by notice in writing at any time revoke any licence issued to an agent or a broker.
- (2) A revocation under subsection (1) shall, unless the Controller orders that it shall have immediate effect, take effect from the 1st day of January next following the issue of the notice of revocation.
- (3) Where the Controller revokes any licence, he shall record the reasons therefor and shall furnish a copy thereof to the agent or broker.

## **58 Surrender of licence**

- (1) The Controller may at any time by notice in writing cancel the licence of an agent or broker if requested in writing by the agent or broker, and upon such cancellation the agent or broker shall return to the Controller the licence issued to him.
- (2) In the event of a revocation under subsection (1) of section 57 or a surrender under subsection (1) of this section, the Controller may authorise the Central Bank on such conditions as he may deem necessary or appropriate the return of the deposit to the broker.

## **59 Records**

Every agent or broker licensed under this Act, in respect of business commenced, transacted or carried on by him as an insurance agent or broker shall maintain, and make available to the Controller on demand:

- (a) a register of policies placed or procured by or through him showing the names and addresses of the policy holders and of the insurers, the dates when the proposals or applications for

insurance were received by him, the dates when the policies were effected, the premiums paid or payable and commission received in respect thereof; and

- (b) such other register or records as may be required by the Controller.

**60      Receipt of premiums, etc.**

Notwithstanding the provisions of any other written or other law, every agent or broker who receives a premium or other payment under a contract of insurance shall in connection with such receipt be deemed to be acting on behalf of the insurer, and the insurer shall be deemed to have received such premium or other payment on receipt thereof by the agent or broker.

**61      Duty to remit premiums**

- (1) An agent or broker who receives a premium or other payment under a contract of insurance shall within fifteen days remit it to the insurer.
- (2) It shall be the duty of an agent or broker to ensure that all premiums or other payments due under a contract of insurance are remitted to the insurer within sixty days from the date of inception of cover.
- (3) In the event of an agent or broker not receiving the premium within the period mentioned in subsection (2), he shall advise the insurer at least seven days before the expiration of that period of the uncollected amounts.
- (4) An agent or broker who contravenes subsections (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred penalty units; so however, that it shall be a defence to a charge under this subsection if the agent or broker proves that he was prevented by illness or other cause beyond his control from complying with the provisions of that subsection and that he has subsequently paid the premium or other payment to the insurer.
- (5) An agent or broker who contravenes subsections (1) or (2) shall also be liable to the insurer, proposer, policy holder, insured and to the person for whom he is acting for any loss resulting from such



contravention.

**62 Constructive notice to insurer**

- (1) Notwithstanding the provisions of any other written or other law, an agent or broker shall:
  - (a) explain fully to a proposer for a contract of insurance or a renewal thereof, the contents of all documents required to be signed by such proposer;
  - (b) communicate to the insurer all such information of which he is aware at any time before or during any negotiations for a contract of insurance or for a renewal thereof which is likely to affect the same; and
  - (c) explain fully to a policy holder whose policy was placed or procured by or through him, the contents of that policy.
- (2) Where an application is made to the Court in any proceedings relating to the issue of any policy of insurance, by an insurer, policy holder, agent, broker, insured, the Controller or any other person whom the Court considers has an interest in the matter and the Court is satisfied that:
  - (a) the person making the proposal for a contract of insurance or for a renewal thereof was illiterate;
  - (b) such person had acted in good faith and had not connived or acted in collusion with any person in concealing or misrepresenting any material fact; and
  - (c) the documents or any of them had been completed or made on behalf of the insured by an agent of the insurer,

the Court may order that all information of which the agent had expressed, implied, or constructive knowledge when completing or making the proposal shall, for the purpose of determining the validity of the policy, be deemed to have been imputed to the insurer.

- (3) An agent or broker who contravenes subsection (1) shall be liable to the insurer and to the person for whom he is acting for any loss

resulting from such contravention.

- (4) The obligations imposed by this section are in addition to and not in derogation of the liability of an agent or broker under the provisions of any other written or other law.

## **PART IX MISCELLANEOUS**

### **63 Prohibition of loans**

- (1) Except with the prior written approval of the Controller, no insurer shall make a loan (other than by way of mortgage of a policy of life insurance issued by that insurer) to a director, manager, actuary, auditor or principal officer employed by such insurer, or to any company incorporated or registered under the *Companies Act* in which any such person holds a similar office, or to a spouse or any dependent child or any such person.
- (2) The Controller shall not approve any application made by an insurer pursuant to subsection (1), unless he is satisfied that:
  - (a) sufficient security is being offered for the repayment of the loan; and
  - (b) the terms and conditions (including interest rate) upon which the loan is offered are not unduly favourable to the borrower.
- (3) The Controller may, in respect of a loan made by an insurer to any person or company referred to in subsection (1) and not fully repaid on the appointed date, after examining the sufficiency of the security given for the repayment of the loan, require in writing that such person, or company, shall within one year, either repay the loan or provide such additional security as he shall consider necessary.
- (4) Notwithstanding the provisions of any other written law, if a loan referred to in subsection (3) is not repaid or the required additional security is not provided, the borrower shall forthwith vacate his office with the insurer and shall be incapable of being reappointed until either the loan is repaid or the additional security has been provided.

**64            Address for service and notice**

- (1) An insurer registered under Part 11 of the *Companies Act 2009* shall, within seven days of its registration under this Act, furnish to the Controller an address in Solomon Islands for service of any document required to be served for the purpose of this Act on an insurer.
- (2) Any document referred to in subsection (1) may be served by delivering it or by sending it by registered post to the address forwarded pursuant to that subsection.

**65            Service on policy holder**

Any document which is by this Act required to be sent to any policy holder may be addressed and sent to the person to whom notices respecting that policy are usually sent, and any document so addressed and sent shall be deemed to have been received by the policy holder:

Provided that where any person claiming an interest under a policy has given notice in writing thereof to the insurer, a copy of such document shall also be sent to that person at the address specified by him in his notice.

**66            Protection for official acts**

No legal proceedings shall be instituted in any court against the Controller or any person authorised by him for anything done or intended to be done, in good faith pursuant to the powers granted to him under this Act.

**67            Appeals**

- (1) Subject to the provisions of subsection (2), a person aggrieved by a decision of the Controller under this Act may, within one month from the date on which such decision is intimated to him, appeal therefrom by petition in writing to the Minister who may, in his discretion, uphold, revoke, reverse or vary such decision.
- (2) Except as hereinafter provided, the decision of the Minister on an appeal made to him under subsection (1) shall be final and

conclusive.

- (3) A person aggrieved by a decision of the Minister made under subsection (1) may, if it involves a question of law, within one month from the date on which the decision is intimated to him, appeal therefrom to the High Court with the leave of that Court.
- (4) The Chief Justice may make rules for regulating the practice and procedure (including the prescription of fees) in connection with an appeal under subsection (4), and for better carrying into effect the provisions of that subsection.

## **68 Protection from process of law**

Subject to such conditions as the Minister may prescribe:

- (a) the interest of the insured or his estate (as the case may be) in a policy effected, whether before or after the appointed date, *bona fide* upon the life of the insured or any other person shall be exempt from any law in force relating to bankruptcy and shall not be liable to be applied or made available in the payment of his debts by any judgment, or order or process of any court;
- (b) the interest of the annuitant in a policy of an annuity effected, whether before or after the appointed date, *bona fide* upon his life shall be exempted from any law in force relating to bankruptcy, and shall not be liable to be applied or made available in payment of his debts by any judgment, order or process of any court.

## **69 Issue of duplicate policy**

- (1) In the event of a policy of ordinary life assurance being lost or destroyed or becoming defaced or illegible the insurer may, upon such evidence as it considers necessary, issue to the person entitled a duplicate policy.
- (2) In the event of the original lost policy being at any time thereafter found or recovered the original policy shall forthwith be lodged with the insurer who shall cause it to be cancelled.
- (3) A duplicate policy shall be available for all purposes and uses for

which the original policy would have been available and as valid for all intents and purposes as the original policy.

**70      Assignment change of ownership, etc.**

Where on or after the appointed date any change in ownership or beneficiary of the policy is effected or the policy assigned or transferred by way of mortgage, trust or other instrument, the insured shall make an endorsement on the policy and written notice thereof communicated to the insurer, who shall then enter such change, assignment or transfer in the register maintained by the insurer.

**71      No assignment of industrial policy**

- (1) Notwithstanding anything to the contrary in this Act, no assignment made after the appointed date of an industrial policy shall be valid without the written consent of the insurer.
- (2) If the insurer refuses his consent, the policy holder may appeal to the Controller who may, in his discretion, uphold, or revoke the decision of the insurer.

**72      Nomination**

The holder of a policy of ordinary life insurance may, when effecting the policy or at any time before the money secured thereby becomes payable, nominate a person or persons to whom it shall be paid in the event of his death so however, that, where any nominee is a minor, it shall be lawful for the policy holder to appoint any person to receive the money in the event of his death during the minority of the nominee.

**73      General penalty**

Any person who contravenes any provision of this Act for which no specific penalty is imposed shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred penalty units.

**74      Regulations**

The Minister may make regulations for or with respect to any matter or thing that by this Act is authorised or required to be prescribed or

that is necessary to be prescribed for the purpose of carrying out or giving effect to the provisions of this Act.

**75      Validity of existing forms**

For the avoidance of any doubt, it is hereby declared that unless otherwise expressly disapproved by the Controller in writing all forms, standard terms and conditions and rates used in Solomon Islands by an insurer on the appointed date may continue to be used and shall be valid as if they had been approved by the Controller.

**76      Act to be supplementary**

The provisions of this Act insofar as applicable to qualifications for registration shall be supplementary to, but not in derogation of any other law applicable to a foreign investor, foreign investment or his enterprise, and the compliance by a person of the provisions of this Act shall not absolve him from his obligation to comply with the provisions of that other law.

## ENDNOTES

### 1

#### KEY

amd = amended	Pt = Part
Ch = Chapter	rem = remainder
Div = Division	renum = renumbered
exp = expires/expired	rep = repealed
GN = Gazette Notice	Sch = Schedule
hdg = heading	Sdiv = Subdivision
ins = inserted	SIG = Solomon Islands Gazette
lt = long title	st = short title
LN = Legal Notice	sub = substituted
nc = not commenced	

#### NOTE

This Reprint comprises the Act and amendments as in force on 1 March 1996 and published as Chapter 82 of the Revised Edition of the Laws of Solomon Islands, together with amendments made to the Act since that date.

### 2

#### LIST OF LEGISLATION

##### ***Insurance Act (Cap. 82)***

*Constituent legislation:* 6 of 1985 (Commenced 1 March 1986)

##### ***Penalties Miscellaneous Amendments Act 2009 (No. 14 of 2009)***

Assent date	29 July 2009
Gazetted	1 October 2009
Commenced	1 October 2009

##### ***Companies Act 2009 (No. 1 of 2009)***

Assent date	2 April 2009
Gazetted	9 April 2009
Commenced	1 July 2010

##### ***Legislation Amendment, Repeal and Validation Act 2023 (No. 17 of 2023)***

Assent date	29 December 2023
Gazetted	29 December 2023
Commenced	5 February 2024

### 3

#### LIST OF AMENDMENTS

s 2	amd by Acts No. 1 of 2009; No. 17 of 2023
s 5	amd by Act No. 14 of 2009

s 6	amd by Act No. 14 of 2009
s 7	amd by Act No. 14 of 2009
s 8	amd by Act No. 14 of 2009
s 9	amd by Act No. 1 of 2009
s 10	amd by Act No. 14 of 2009
s 12	amd by Acts No. 1 of 2009; No. 17 of 2023
s 13	amd by Act No. 14 of 2009
s 26	amd by Act No. 17 of 2023
s 35	amd by Act No. 1 of 2009
s 51	amd by Acts No. 1 of 2009; No. 17 of 2023
s 54	amd by Act No. 14 of 2009
s 55	amd by Act No. 14 of 2009
s 57	amd by Act No. 17 of 2023
s 61	amd by Act No. 14 of 2009
s 64	amd by Act No. 1 of 2009
s 73	amd by Act No. 14 of 2009