

ACT

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THE INSURANCE ACT, 2016

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Passed in Parliament this *21st day of April*, in the year of our Lord two thousand and sixteen.

IBRAHIM S. SESAY,
Clerk of Parliament.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correct printed copy of the said Bill.

IBRAHIM S. SESAY,
Clerk of Parliament.

SIGNED this *12th day of July, 2016.*

DR. ERNEST BAI KOROMA,
President.



No. 12



Sierra Leone

2016

The Insurance Act, 2016

Short title.

Being an Act to continue in existence the Sierra Leone Insurance Commission and to regulate the business of insurance in Sierra Leone.

[] Date of commencement.

ENACTED by the President and Members of Parliament in this present Parliament assembled.

PART I – PRELIMINARY

Interpretation. 1. In this Act, unless the context otherwise requires-

“adjuster” means a person duly registered to undertake professional insurance adjusting business for or on behalf of an insurer, an insured or any other person;

“approved securities” means securities issued by the Government of Sierra Leone or guaranteed as to principal and interest by the Government;

“certified” in relation to any copy or translation of a document required to be furnished by or on behalf of an insurer means certified by the principal officer or principal representative as the case may be, of such insurer to be a true copy or correct translation;

“chief agent” means a person who, with the authority of an insurer, or on his behalf –

- (i) initiates insurance business either directly or through insurance agents and receives proposals either directly or through insurance agents;
- (ii) supervises the activities of insurance agents;
- (iii) collects premium from the insured and insurance agents;
- (iv) settles claims arising out of policies of insurance subject to any agreement in this behalf;
- (v) disburses the commission due to insurance agents;

- (vi) subject to any agreement in this behalf, acts as the representative of the insurer in Sierra Leone or any well defined geographical area forming part of Sierra Leone

“Commission” means, the Sierra Leone Insurance Commission referred to in section 2 of the Act;

“company” has the meaning assigned to it under the Companies Act No. 5 of 2009;

“domestic insurer” means an insurer incorporated under the Companies Act, or under any law for the time being in force in Sierra Leone;

“director” means any person occupying the position of director of a body corporate by whatever name called;

“financial year” in relation to domestic insurer or in relation to the business of a foreign insurer in Sierra Leone means the calendar year ending on 31st December and in relation to foreign insurers in respect of the accounts for the total business means the period not exceeding twelve months at the end of which accounts of the insurer is balanced;

“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 fire insurance policies;

“foreign insurer” means an insurer incorporated under the law of any country other than Sierra Leone;

“general insurance business” means fire, marine, motor or miscellaneous insurance business whether carried on singly or in combination with one or more of them but excludes life insurance business and long term insurance business;

“industrial life insurance business” means the business of life insurance where the insurer expressly or tacitly undertakes to send a person to the owner of the policy at his residence or place of work to collect the premium, and where the frequency of payment of premium is not less than twelve times a year at intervals not exceeding a month, 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 agent” means, in respect of life insurance business an individual and in respect of general insurance business a person who, with the authority of an insurer acts on his behalf in the initiation of insurance business, the receipt of proposals and, subject to written authority by the insurer, to collect premiums on his behalf;

“insurance broker” means a person who acts as an independent contractor for commission or other compensation and not being an agent of the insurer, solicits or negotiates insurance business on behalf of an insured or prospect in reinsurance business;

“insurance business” means the assumption of the obligation of an insurer or reinsurer in the case of insurance business or reinsurance business as the case may be;

“insurance intermediary” includes an insurance broker and adjuster;

“insurer” means a person carrying on insurance business otherwise than as an insurance agent, special agent or chief agent;

“life insurance business” includes industrial life insurance business and ordinary life insurance business and means the business of effecting contracts of insurance upon human life including any contract whereby the payment of money is assured on death (except policies for death by accident only) or the happening of any contingency dependent on human life or which is subject to payment of premiums for a term dependent on human life and includes—

- (a) the granting of disability and double or triple indemnity accident benefits if so provided in the contracts of insurance;
- (b) the granting of annuities upon human life; and
- (c) the granting of superannuation and annuities payable out of any fund applicable solely to the relief and maintenance of persons engaged or who have been engaged in any particular profession, trade or employment or of the dependants of such persons;

“life insurance fund” or “life fund” means the fund to which the receipts of an insurer in respect of his life insurance business are carried and from which payments in respect of that business are made;

“life insurance policy” means an ordinary life assurance policy or industrial life assurance policy;

“long term insurance business” includes the business of—

- (a) sinking bond, capital redemption or bond investment;
- (b) indemnifying for loss of income as a result of disability by accident or sickness;
- (c) indemnifying for cost of hospitalization as a result of disability by accident or sickness;
- (d) insuring the payment on the happening of the contingencies of birth, marriage or failure of issue either singly or in combination; but does not include business comprising insurance contracts which are terminable by the insurer at intervals not exceeding twelve months, or by notice to the insured;

“Manager” and “officer” have the meanings assigned to them under the Companies Act 2009 ;

“marine insurance business” means the business of effecting contracts of insurance upon vessels of any description, including cargoes, freights and other interests which may be legally insured, or in relation to such vessels, cargoes and freight, goods, wares, merchandise and property of whatever description insured for any transit by land, water or air, or by combination thereof and whether or not including warehouse risks or similar risks in addition to or incidental to such transit, and includes any other risk customarily included among the risks insured against in marine insurance policies;

“Minister” means the Minister responsible for finance;

“miscellaneous insurance business” means the business of effecting contracts of insurance which is not principally of any kind included in life insurance business, marine insurance business and motor insurance business;

“motor insurance business” means the business of effecting contracts of insurance indemnifying owners or persons financially interested in motor vehicles against damage to the vehicles, or any payment made to extinguish the legal liability of the owner or driver arising out of the use of the vehicle or any payment made to extinguish any other liability for the use of the vehicle;

“ordinary life insurance business” means the business of life insurance where the insurer assumes no responsibility to collect the premium from the insured;

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

“policy-holder” means the person who for the time being has the legal title to the policy and includes any person to whom a policy is for the time being assigned;

“prescribe” means prescribe by rules, regulations or orders;

“registered” means registered for the purpose of this Act.

PART II—ESTABLISHMENT OF SIERRA LEONE INSURANCE COMMISSION

Establishment of Sierra Leone Insurance Commission

2. (1) There shall continue to be in existence a body to be known as the Sierra Leone Insurance Commission.

(2) The Commission shall be a body corporate having perpetual succession and capable of acquiring, holding and disposing of any property, whether movable or immovable, and of suing and being sued in its corporate name, and subject to this Act, performing all such acts as bodies corporate may by law perform.

(3) The Commission shall have a common seal the use of which shall be authenticated by the signatures of the Chairman and other member of the Commission generally or specifically authorised by the Commission for that purpose.

(4) The Commission shall have power for the discharge of its functions under this Act to acquire and hold any movable or immovable property, to dispose of such property and to enter into any contract or other transaction.

Object and functions of Commission

3. (1) The object of the Commission is to ensure effective administration, supervision, regulation and monitoring of the business of insurance in Sierra Leone.

(2) For the attainment of its object the Commission shall perform the following functions:—

- (a) ensure strict compliance with the provisions of this Act and statutory instruments made under it and any other enactment relating to insurance;
- (b) register insurers, re-insurers and insurance intermediaries who transact insurance business in Sierra Leone;

- (c) establish standards for the conduct of insurance intermediaries;
- (d) monitor rates of insurance premiums and commissions in respect of all classes of insurance;
- (e) protect insurance policy-holders, insurance beneficiaries and third parties to any insurance contract;
- (f) approve standards and conditions to be applicable to the insurance industry;
- (g) provide a bureau to which complaints may be submitted by the members of the public;
- (h) ensure adequate insurance protection and security for national strategic assets and properties;
- (i) formulate proposals for the promotion of sound and efficient insurance market in the country;
- (j) ensure in respect of re-insurance that the local retention capacity is exhausted before an insurer resorts to re-insurance outside Sierra Leone;
- (k) undertake sustained and methodical public education on the insurance business in general; and
- (l) generally perform such other functions as are necessary or incidental to the functions specified in this section.

4. (1) The Commission shall consist of -

- (a) a Chairman;

Composition of Commission.

- (b) the Financial Secretary or his representative;
- (c) the Commissioner of Insurance;
- (d) two representatives of the Sierra Leone Insurance Association;
- (e) a representative of the Sierra Leone Chamber of Commerce and Agriculture;
- (f) a representative of the Sierra Leone Bar Association; and
- (g) two other persons, one of whom shall be a woman.

(2) The Chairman and the person referred to in paragraph (g) of subsection (1) shall be appointed by the President subject to the approval of Parliament.

(3) The members of the Commission, except the ex-officio members, shall hold office for a term of three years and thereafter shall be eligible for re-appointment for another term of three years only.

(4) A member of the Commission, other than an ex-officio member, may resign his office by writing addressed to the Minister.

(5) The members of the Commission other than the Commissioner of Insurance shall be paid such allowances as the Minister may determine.

Meetings of
the
Commission.

5. (1) The Commission shall ordinarily meet for the dispatch of its business at such times and places as the Chairman may determine and in any event the Commission shall meet at least once a month.

(2) A special meeting of the Commission shall be held upon a written request of at least three members of the Commission addressed to the Secretary to the Commission.

(3) The Chairman shall preside at meetings of the Commission and in his absence the other members shall appoint a member to preside.

(4) The quorum for any meeting of the Commission shall be five.

(5) Decisions at meetings of the Commission shall be determined by a majority of the votes of the members present and voting and in the event of an equality of votes, the Chairman or person presiding shall have a second or casting vote.

(6) The validity of any proceedings of the Commission shall not be affected by any vacancy among its members or defect in the appointment of any member.

(7) Except as otherwise provided, the Commission shall regulate its proceedings.

6. (1) A member of the Commission who has any interest in a contract proposed to be made with the Commission shall disclose the nature of his interest to the Commission and shall not participate in any deliberations of the Commission in respect of that contract. Disclosure of interest.

(2) A member of the Commission who infringes subsection (1) shall be liable to be removed from the Commission.

7. (1) The Commission may for the discharge of its functions appoint such committees as may be necessary which shall consist of members of the Commission or non-members or both and may assign to them such functions as the Commission shall determine. Committees of the Commission.

(2) A member of the Commission shall be appointed chairman of such committee.

(3) The members of a committee shall be paid such allowances as the Commission may determine;

Commissioner,
Deputy
Commissioner.

8. (1) There shall be a Commissioner of insurance who shall be appointed by the President subject to the approval of Parliament and who shall be the chief executive of the Commission.

(2) The Deputy Chief Executive of the Commission shall be the Deputy Commissioner of Insurance (hereafter referred to as “the Deputy Commissioner”), and shall be appointed by the President subject to the approval of Parliament.

(3) The Commissioner and Deputy Commissioner shall be persons possessing recognised professional qualifications and proven experience in insurance matters.

(4) The Commissioner shall, subject to such general directions as the Commission may give on matters of policy, be responsible for the day- to-day administration of the Commission.

(5) The Deputy Commissioner shall assist the Commissioner in the performance of his duties and shall perform such other duties as the Commission may after consultation with the Commissioner direct.

Secretary and
other staff of
Commission.

9. (1) There shall be an officer to be designated as the Secretary to the Commission who shall be appointed by the Commission on such terms and conditions as it may determine.

(2) The Secretary to the Commission shall perform such functions as the Commission or the Commissioner may direct.

(3) The Commission may engage such other officers and employees as may be necessary for the effective discharge of its functions and on such terms and conditions as it may determine.

Funds of
Commission.

10. The funds of the Commission shall include-

- (a) fees and other charges payable by insurers and intermediaries;

(b) grants from Government or any other sources;

(c) monies accruing to the Commission by way of revenue;

(d) loans granted to the Commission by Government, a bank or any other financial institution; and

(e) donations.

11. (1) The Commission may obtain loans and other credit facilities on the guarantee of the Government from such banks and other financial institutions as the Minister may approve. Borrowing powers.

(2) Without prejudice to subsection (1), the Commission may with the approval of the Minister borrow money from any other source.

12. (1) The Commission shall keep proper books of account and proper records in relation to the accounts. Accounts and audit.

(2) The books and accounts of the Commission shall at the end of each financial year be audited by the Auditor-General or by an auditor appointed by him.

(3) The Commission shall pay in respect of the audit such fees if any, as the Auditor-General and the Commission may agree on.

(4) The Auditor-General shall submit a report of the audit carried out by him or by an auditor approved by him to the Commission.

(5) The Commission shall, not later than three months after receiving the report of the Auditor-General pursuant to subsection (4) forward the report to the Minister who shall submit the report with his observations on it, to the Cabinet.

Annual Report. **13.** The Commission shall not later than six months after the end of each financial year, submit to the Minister an annual report on the activities of the Commission during that financial year and he shall lay the report before Parliament.

Financial year of Commission. **14.** The financial year of the Commission shall be from 1st January to the 31st day of December of the same year .

Transfer of assets and liabilities. **15.** All assets, rights and liabilities of the Commission existing immediately before the commencement of this Act shall be transferred to the Commission.

PART III—REGISTRATION OF INSURERS AND OTHER RELATED PROVISIONS

All insurers to be registered. **16.** (1) Subject to subsection (2), no person shall carry on insurance business in Sierra Leone unless he applies for and is registered as an insurer under this Act.

(2) An insurer carrying on insurance business before or at the commencement of this Act shall, not later than nine months after the commencement of this Act apply for registration.

(3) Any person or insurer who contravenes this section commits an offence and shall be liable on summary conviction to a fine not exceeding 20,000,000 leones or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Failure to register not to invalidate contract. **17.** Failure of an insurer who was carrying on any class of insurance business in Sierra Leone at or before the commencement of this Act to obtain a certificate of registration in accordance with the requirements of this Act shall not operate to invalidate any contract of insurance entered into by him before the commencement of this Act or three months after that.

Application for registration. **18.** (1) An application to be registered as an insurer for any class of insurance business shall be made to the Commission in the prescribed form and shall be accompanied by—

(a) a certified copy of the memorandum and articles of association or if the applicant is not domiciled in Sierra Leone, the instrument of constitution of the applicant;

(b) the name, address and occupation of the directors and where the applicant is not domiciled in Sierra Leone, the full address of the principal office in Sierra Leone and the names and addresses of one or more persons resident in Sierra Leone authorised to accept any notice required to be served on the insurer;

(c) a statement of the class or classes of insurance business to be done;

(d) a statement duly certified by an auditor that section 28 has been complied with;

(e) a statement that the amount required to be deposited under section 29 has been deposited together with a certificate from the Bank of Sierra Leone showing the amount deposited;

(f) a certified copy of the published prospectus, if any, and of the standard policy forms of the insurer and statements of the assured rates, advantages, terms and conditions to be offered in connection with insurance policies:

Provided that in the case of general insurance business, the Commission may exempt any insurer from the requirements regarding prospectus, forms and statements to such extent and for such period as it may think fit;

Registration
of insurers.

19. (1) The Commissioner shall not register an applicant as an insurer unless he is satisfied that—

- (g) the receipt showing payment in the prescribed manner of the prescribed fee which shall not be more than 1% of the gross premium for each class of insurance business;
- (h) such other documents or information as may be prescribed.
- (a) the applicant conduct its insurance business in accordance with sound insurance principles;
- (b) the applicant is duly established under the applicable law and has fulfilled the requirements pertaining to capital pursuant to section 28;
- (c) the applicant has paid to the Bank of Sierra Leone the statutory deposit required under section 29 and has submitted evidence of such payment from the Bank of Sierra Leone;
- (d) the arrangements relating to re-insurance in respect of the classes of insurance business to be transacted are adequate and valid;
- (e) the proposal forms, terms and conditions of policies are in order and acceptable;
- (f) there is at least—
 - (i) one person with an Associate Chartered Insurance Institute (ACII) Diploma or a West African Insurance Institute (WAI) Diploma or a recognised equivalent professional insurance qualification;

- (ii) a holder of a recognised University degree in insurance or actuarial science with a minimum of five years post qualification experience in the middle management cadre of an insurance company, to head each department of the applicant's insurance business;
 - (g) the directors and shareholders of the applicant are not persons who have been convicted of any offence involving fraud or dishonesty;
 - (h) the name of the applicant is not likely to be mistaken for the name of another insurer or so nearly resembling that as to be calculated to mislead;
 - (i) the applicant has paid the registration fee; and
 - (j) where the class of insurance business is other than life insurance, the application is for the purpose of transacting any of the four classes of insurance business.
- (2) The Commissioner shall register an applicant as an insurer by issuing a certificate of registration to that person.

20. (1) No person shall carry on the business of

- (a) protection and indemnity club;
- (b) mutual marine protection;
- (c) cooperative insurance association in Sierra Leone,

unless that person applies for and is registered as a club in the protection and indemnity business or any marine business under this Act

Protection
and indemnity
club to be
registered.

(2) For the purposes of this Act “protection and indemnity club” means a mutual insurance association that provides cover for its members.

Compulsory
tenantable
or public
properties
insurance.

21. (1) Tenantable or public properties shall be insured against fire.

(2) For the purposes of this Act, “tenantable properties” means colleges, hospitals, entertainment centers, office buildings, dwelling houses, factories and shops.

Employer’s
liability
insurance.

22. An employer who employs more than five person shall take out employer’s liability insurance in respect of the employees.

Building
insurance.

23. (1) All buildings above two storeys under construction shall be insured against public liability.

(2) For the purposes of this section public liability means

- (a) injury and death to members of the public;
- (b) damage to neighbouring properties as a result of excavation and falling objects .

(3) This section shall not apply to employees of the contractor.

Classes of
insurance
business..

24. For the purposes of this Act insurance business shall comprise-

- (a) life insurance business and long term insurance business;
- (b) fire insurance business;
- (c) marine and aviation insurance business;

- (d) motor insurance business;
- (e) miscellaneous insurance business;
- (f) re-insurance; and
- (g) oil and gas insurance business.

25. No person other than–

- (a) a company incorporated under the Companies Act, not being a company to which section 19 of that Act applies;
- (b) a society registered under the Co-operative Societies Act, 1977
- (c) a body corporate incorporated under the laws of any country other than Sierra Leone not being a private company or a subsidiary of a private company,

Prohibition of
transaction of
insurance
business by
certain
persons.

shall be registered for any class of insurance business.

26. (1) Subject to subsection (2), no person shall be registered as an insurer unless he has and maintains a paid-up share capital of not less than–

Capital
Requirements.

- (a) four hundred and eighty million leones if it wishes to transact life insurance business;
- (b) four hundred and eighty million leones for each class of insurance business other than life insurance which it wishes to transact;
- (c) ten times the amounts specified in paragraph (a) or (b) if it wishes to transact re-insurance business.

(2) The capital requirements of an insurer transacting insurance business before or at the commencement of this Act shall be satisfied not later than two years after the commencement of this Act.

Deposits.

27. (1) Every company incorporated in Sierra Leone shall before and after registration as an insurer deposit and keep deposited with the Bank of Sierra Leone an amount of three hundred million Leones for each class of insurance business it seeks to transact.

(2) Every company incorporated outside Sierra Leone shall before and after registration as an insurer deposit and keep deposited with the Bank of Sierra Leone an amount of six hundred million Leones for each class of insurance business it seeks to transact.

(3) Every company seeking to transact re-insurance business shall before and after registration deposit and keep deposited with the Bank of Sierra Leone ten times the amount specified in subsections (1) and (2), as the case may be.

(4) The deposit may be made in cash or in approved securities or partly in cash and partly in approved securities, so that the sum total of the cash deposited and the face value or nominal value of the securities is not less than the amount required to be deposited under this section.

(5) A deposit made in cash shall be held by the Bank of Sierra Leone to the credit of the insurer.

(6) The insurer may at any time replace any securities deposited by him under this section with the Bank of Sierra Leone either by cash or other approved securities or partly by cash and partly by approved securities provided the cash and the face value of the securities are not less than the face value of the securities replaced.

(7) The Bank of Sierra Leone shall, if so requested by the insurer—

- (a) sell any securities deposited by the insurer with the Bank under this section and hold the cash realised by such sale as deposit; or
- (b) invest in approved securities specified by the insurer the whole or part of a deposit held by it in cash or the whole or part of cash received by it on the sale of or the maturing of securities in which investment is so made as deposit and may charge the normal commission on such sale or investment.

(8) If the cash realised by the sale of securities falls short of the face value of the securities, the insurer shall make good the deficiency by a further deposit either in cash or in approved securities within a period of two months from the date on which the securities were sold and unless he does so the insurer shall be deemed to have failed to comply with the requirements of this section.

(9) If the cash realised by the sale of securities exceed the face value of the securities the Commissioner may, if satisfied that the full amount required to be deposited under this section is in deposit, direct the Bank of Sierra Leone to return the excess.

(10) Any interest accruing, due and collected on securities deposited under this section shall be paid to the insurer subject only to deduction of the normal commission chargeable for realisation of interest.

(11) If any part of a deposit made under this section is used in the discharge of any liability of the insurer, the insurer shall deposit such additional sums in cash or approved securities as will make up the amount so used; and the insurer shall be deemed to have failed to comply with the requirements of this section unless the

deficiency is supplied within a period of two months from the date when the deposit or any part of it is so used for the discharge of liabilities.

Reservation of and withdrawal from deposit.

28. (1) Any deposit made under section 27 shall be deemed to be part of the assets of the insurer but shall not-

- (a) be susceptible to any assignment or charge;
- (b) be available for discharging any liabilities of the insurer other than liabilities arising out of policies of insurance issued by the insurer so long as any of the liabilities remain undischarged;
- (c) be liable for attachment in execution of any decree except a decree obtained under any policy issued by the insurer in respect of a debt due upon a policy which could not be realised in any other way.

(2) A deposit made in respect of life insurance business shall not be available for the discharge of any liability of the insurer other than liabilities arising out of policies of life insurance issued by the insurer.

(3) Where an insurer suffers a substantial loss arising from liability to claimants and the loss is such that it cannot reasonably be met from available resources, the Commission may, upon application made to it by the insurer, after ascertaining the nature of the claim, approve the withdrawal from the deposit of the insurer an amount of not more than ten percent of the deposit, and any amount so withdrawn shall be replaced by the insurer within ninety days after the date of the withdrawal.

Refund of deposit.

29. (1) Where an application for registration is refused or registration is cancelled the Commissioner shall, subject to the provisions of this Act, refund to the applicant or insurer, as the case may be, the statutory deposit.

(2) Where an insurer has ceased to transact in Sierra Leone, any class of insurance business in respect of which a deposit has been made under section 25 and its liabilities in Sierra Leone arising out of policies of the class of insurance business transacted have been satisfied or otherwise provided for, the Commission may, on the application of the insurer, order the refund to the insurer of so much of the deposit as does not relate to the class of insurance business the insurer continues to transact.

30. (1) The Commissioner on being satisfied that the requirements of sections 19, 26 and 27 have been complied with may, with the approval of the Commission grant the certificate of registration to the insurer. Grant of certificate of registration.

(2) Where the Commissioner refuses to grant a certificate of registration, he shall within thirty days of receipt of an application for registration notify the applicant in writing of the reasons for his refusal to grant the certificate.

(3) Where the Commissioner does not refuse to grant a certificate of registration within three months of the date of receipt of the application and the applicant has complied with all the registration requirements under this Act, the certificate shall be deemed to have been granted with effect from the expiry of three months of the date of the application.

(4) A certificate of registration shall be valid for a period of twelve months.

(5) The Commissioner may, on the payment of the prescribed fee issue a duplicate certificate of registration to replace a certificate lost, destroyed or mutilated, or in any other case where the Commissioner thinks a duplicate certificate is necessary.

31. An applicant aggrieved by the refusal of the Commissioner to grant a certificate of registration may within thirty days of receipt of the notice of refusal appeal to the High Court. Appeal to the High Court.

Renewal
of registration

32. (1) An insurer who has been granted a certificate of registration shall apply for the renewal of its certificate sixty days before it expires.

(2) An application under this section shall—

(a) be made to the Commissioner in the prescribed form; and

(b) be accompanied by such documents, information and fee as may be prescribed.

(3) The Commissioner shall on fulfilment by an insurer of the requirements of this section renew the registration and grant a certificate of registration.

(4) Where the insurer fails to apply for renewal of registration at the expiration of the period specified in subsection (1), the Commissioner may accept an application for renewal of the registration made later, on receipt from the insurer of the prescribed fee and such penalty not exceeding the prescribed fee as the Commission may determine.

(5) Subject to subsection (4), where an insurer fails to apply for a renewal of a registration within the period provided in subsection (1), it shall be deemed to have applied for the cancellation of its registration.

Cancellation
of registration

33. (1) Where the Commissioner is satisfied that—

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

(b) the insurer has failed to satisfy the margin of solvency prescribed in section 35;

(c) the insurer has ceased to carry on in Sierra Leone insurance business of the class assigned to it, for at least one year;

(d) the insurer has applied in writing for the cancellation of his registration as an insurer;

(e) a judgment obtained in a court in Sierra Leone against the insurer remains unsatisfied for thirty days and there is no appeal pending against the judgement;

(f) the insurer is carrying on simultaneously with the insurance business any other business which is detrimental to the insurance business of the insurer;

(g) the business of the insurer has been transferred to or amalgamated with the business of any other insurer;

(h) the insurer has refused to submit to an examination of its books as provided for in this Act;

(i) the insurer has failed to comply with the provisions of section 36 (relating to accounts of life policies);

(j) the insurer has failed to maintain adequate reinsurance arrangements and treaties in respect of the classes of insurance business the insurer is authorised to transact;

- (k) subject to subsection (3), that the insurer lacks the necessary expertise by virtue of a substantial reduction in the number of its qualified employees;
- (l) the insurer has contravened the provisions of any law relating to reinsurance;
- (m) the net assets of the insurer are below the minimum paid-up capital and the capital has not been made good within the time stipulated by the Commissioner;
- (n) the insurer persistently fails to pay claims promptly;
- (o) the insurer has failed to set up the special reserves prescribed under section 37;
- (p) the insurer has established a branch office without the approval of the Commission;
- (q) the insurer has acted in any manner without the approval of the Commission where this Act requires such approval;
- (r) the insurance business has been wound-up or otherwise dissolved or has gone into liquidation;
- (s) the insurer, in the case of a reinsurance company, has failed to satisfy the provisions of section 27,

the Commissioner shall give notice in writing to the insurer of his intention to cancel the registration of the insurer in respect of a particular class or classes of insurance business and the provisions of section 30 shall apply to such notice as if it were a notice to reject an application for registration.

(2) Where no appeal is lodged as provided for in section 31, the Commissioner shall, with the approval of the Commission cancel the registration of the insurer and notice of such cancellation shall be published in the Gazette.

(3) Where the lack of necessary expertise specified in paragraph (k) of subsection (1) relates to a particular class of insurance business, the Commissioner may—

- (a) suspend the insurer from carrying on that class of insurance business until the deficiency is corrected; or
- (b) cancel that class of insurance business from the number of insurance businesses the insurer is authorised to transact

(4) Where the certificate of registration of an insurer is cancelled; the insurer shall discontinue acceptance of any new business and shall wind-up the insurance business—

- (a) within two years of the date of cancellation in the case of re-insurance business;
- (b) Within twelve months of the date of cancellation in any other case; and
- (c) in all cases, a receiver may be appointed from the date of cancellation.

(5) If the Commission is satisfied that the insurer has complied with the requirements for non-compliance or contravention for which the registration was cancelled and has complied with any further directions which may be given to the insurer, the Commission may reinstate registration.

Alterations
in particulars
to be
reported.

34. (1) Every insurer shall furnish the Commission with full and authenticated particulars of any alteration or change in any of the matters specified in section 18.

(2) Where the alteration affects the assured rates, terms, advantages and conditions in connection with life policies the insurer shall furnish the Commission with full particulars of the alteration before it takes effect.

Margin of
solvency.

35. (1) The solvency margin of an insurer shall be as follows:-

- (a) in the case of an insurer carrying on life insurance business the liabilities of the insurer shall not exceed the amount of the life insurance fund of the insurer; and
- (b) in the case of any other class of insurance business, the assets of the insurer shall exceed its liabilities by a minimum of one tenth of the premium income.

(2) The Minister may, on the advice of the Commission prescribe-

- (a) the standard of solvency margin for insurers;
- (b) the method for calculating the assets and liabilities of an insurer for the purposes of this section.

Life insurance
fund and its
control.

36. (1) Where an insurer carries on life insurance business together with any other class of insurance business, the insurer shall keep a separate account of all receipts in respect of the life insurance business.

(2) The receipts referred to in subsection (1) shall form a separate life insurance fund with an appropriate name.

(3) The investments of the life insurance fund shall be kept separate from the investment of any other fund of the insurer.

(4) The life insurance fund shall-

- (a) be absolutely the security of the policy-holders and shall be held by the insurer as though it were an insurer carrying on business other than life insurance business;
- (b) not be applied for satisfying any liability arising out of any contract of the insurer for which it would not be applicable if the business of the insurer were only life insurance business; and
- (c) not be applied directly or indirectly for any purpose other than that of life insurance business referred to in subsection (1).

37. (1) An insurer shall establish and maintain in respect of each class of insurance business- Reserves.

- (a) reserves for unexpired risks;
- (b) reserves for outstanding claims; and
- (c) contingency reserves to cover fluctuations in securities and variations in statistical estimates.

(2) An insurer shall maintain in respect of insurance business other than life insurance business-

- (a) in the case of insurance business other than marine insurance business, the reserves for unexpired risks amounting to not less than forty-five percent of the total net premiums;

- (b) in the case of marine hull insurance business the reserves for unexpired risks amounting to not less than seventy-five percent of the net premiums;
 - (c) in the case of reserves for outstanding claims, the reserves shall be equal to the total estimated amount of all outstanding claims together with a further amount representing twenty percent of the estimated amount of outstanding claims in respect of claims incurred but not reported at the end of the last preceding year; and
 - (d) in the case of contingency reserves, reserves shall not be less than three percent of the total premiums or twenty percent of the net profits whichever is the greater; and such amount shall accumulate until it reaches the minimum paid-up capital or fifty percent of the net premiums, whichever is the greater.
- (3) An insurer shall maintain with respect to the life insurance business—
- (a) a general reserves fund which shall be credited with an amount equal to the net liabilities on policies in force at the time of the actuarial valuation; and
 - (b) contingency reserves which shall be credited with an amount equal to one percent of the premiums.

38. (1) No insurer shall declare or distribute any dividend ^{Dividends.} except from profits approved by its governing body as profits on hand after retaining unimpaired—

- (a) the entire paid-up capital stock;
- (b) the statutory margin of solvency, the statutory reserve fund or technical reserve as the case may be; and
- (c) a sum sufficient to pay all net losses reported in the case of settlement all liabilities for expenses of management, rates and taxes,

(2) Any dividend declared or distributed under subsection (1) shall be reported to the Commissioner within thirty days after such declaration or distribution.

39. (1) No insurer shall allow credit on the premium payable ^{Restriction on credit.} on an annual policy.

(2) The receipt of an insurance premium shall be a condition precedent to a valid contract of insurance and there shall be no cover in respect of an insurance risk, unless the premium is paid in advance.

PART IV—RECORDS, ACCOUNTS AND RETURNS

40. (1) Where the insurer carries on business in more than one of the classes specified in section 24, he shall keep a separate account of all receipts and payments in respect of each class of insurance ^{Separation of accounts.} business.

(2) Where the insurer carries on the business of life insurance, all receipts of such business shall be carried to and shall form a separate fund to be called life insurance fund; and the assets of this fund shall be kept free from all incumbrances and shall be separate from all other assets of the insurer.

(3) Where the insurer carries on long term insurance business along with life insurance business, he shall keep separate accounts of all receipts and payments in respect of each sub-class of long term insurance business.

Accounts to
be furnished.

41. (1) Every insurer shall, within three months of the end of each year prepare with reference to that year and furnish to the Commissioner in respect of all insurance businesses transacted in Sierra Leone-

- (a) a balance sheet showing the financial position in respect of all insurance businesses transacted
- (b) a profit and loss account in respect of all insurance business;
- (c) a separate revenue account for-
 - (i) life insurance business;
 - (ii) each class of insurance business other than life insurance business;
 - (iii) each class of re-insurance business;

(d) an analysis of life insurance policies at the beginning and end of that year;

(e) a return required to be filed under section 51;

(f) a statement showing the amount of premium, commission and claims arising out of business ceded or accepted by way of re-insurance;

(g) a return required to be filed under section 60;

(2) The accounts and other returns required under subsection (1) shall be audited by an independent firm of auditors approved by the Commissioner.

42. A registered foreign insurer shall keep in Sierra Leone-

- (a) a record of all domestic policies issued by him showing his rights and obligations under the policies;
- (b) a record of premiums received on all domestic policies;
- (c) a record of all his income and disbursements in respect of his insurance business made in Sierra Leone; and
- (d) a record of all investments under this Act made and documentary evidence of his assets and liabilities in Sierra Leone.

Records to be
kept by
foreign
insurers.

Accounts and statements submitted by foreign insurers in their country of domicile.

43. (1) Every registered foreign insurer shall furnish to the Commissioner, a copy of every statement, balance sheet, revenue account and valuation statements which he is required to submit to the insurance authority of the country in which the insurer is domiciled; and in case the insurer is not required to file any documents to the insurance authority of the country in which he is domiciled, he shall furnish a statement showing his total assets and liabilities at the close of the period covered by the document and his total income and expenditure.

(2) If any document in subsection (1) is in any language other than English, the document shall be accompanied by a certified translation in English.

Certificate that foreign insurer has complied with the requirements and law in country of domicile.

44. (1) Every registered foreign insurer shall, within six months of the close of the year forward to the Commissioner a certificate from the authority administering insurance legislation in his country of domicile that the insurer has complied with the requirements of the law, and that no action was taken against the insurer by the authority in the year for which the account returns are furnished nor any action is contemplated by the authority against the insurer for any default or contravention of the law.

(2) If a certificate is in any language other than English, a certified translation in English shall accompany the original.

Consolidated accounts of insurers who are holding companies or subsidiaries.

45. If an insurer is a holding company of other insurers or a subsidiary of another insurer, the insurer shall submit in addition to the statement in section 41 a consolidated balance sheet and a consolidated income and expenditure account of the group of companies of which the insurer is the holding company or subsidiary as the case may be.

Reports made to share-holders or policy-holders and abstract of meetings.

46. (1) A copy of every report made by the directors of a registered insurer to the share-holders or policy-holders shall be forwarded to the Commissioner immediately after it is submitted to the share-holders or policy holders as the case may be.

(2) Every domestic insurer shall forward to the Commissioner the minutes of every general meeting within thirty days of the holding of the meeting.

47. In addition to the certificate required from an auditor under the Companies Act, the returns under section 41 shall carry such additional certificates to be signed by such persons as may be prescribed.

Certificate relating to account statement.

48. If the auditor has made any report to the directors of a domestic insurer in connection with the financial affairs of the insurer or the management of a registered foreign insurer in connection with the financial affairs in Sierra Leone of the foreign insurer, a copy of the report shall be forwarded to the Commissioner.

Auditor to send copy of report made to Management to Commissioner.

49. (1) If in the opinion of the Commissioner a document furnished by an insurer under section 41 is incorrect or not prepared in accordance with this Act, he may, by notice in writing, call upon the insurer to amend the document or to furnish a correct document or as the case may be, a document prepared in accordance with this Act

Amendments and correction in accounts returns

(2) If an insurer fails to comply with a notice referred to in subsection (1) to the satisfaction of the Commissioner, the Commissioner may himself either amend the document in question, giving the insurer particulars of the amendments, or reject the document.

(3) A document amended by the Commissioner or by an insurer under this section shall be deemed to have been submitted to the Commissioner in its amended form.

(4) Where a document of an insurer has been rejected by the Commissioner under subsection (2), the insurer shall be deemed to have contravened the provisions of this Act in relation to that document unless and until he has furnished another document in accordance with the directions of the Commissioner.

Actuarial reports and abstracts.

50. (1) Every insurer transacting life insurance business and long term insurance business shall once in every three years cause an investigation to be made by an actuary into the financial conditions of the life and long term insurance businesses carried on by him including a valuation of his liabilities in respect of the businesses and shall cause an abstract of the report of such actuary to be made in accordance with the prescribed form.

(2) The abstract of the report of the actuary shall be furnished to the Commissioner within twelve months of the end of the period to which such abstract relates.

Minimum basis of valuation of liabilities.

51. The basis and the method of calculation of liabilities in respect of life insurance businesses and long term insurance business may be prescribed and in that case no insurer shall cause the actual liability of any policy in respect of life insurance business and long insurance business to be less than the liability worked out on the basis and method.

Revaluation of liabilities.

52. (1) If it appears to the Commissioner that an investigation or valuation to which section 50 applies does not properly indicate the condition of the affairs of the insurer by reason of the faulty basis adopted in the valuation, he may after giving notice to the insurer giving him an opportunity of being heard, cause an investigation or valuation to be made by an actuary appointed by the insurer at his expense, on such date as the Commissioner may specify; and the insurer shall place at the disposal of the actuary all the materials required by the actuary for the purpose of the investigation or value

(2) The abstract and statement prepared as a result of the investigation shall be furnished by such date as the Commissioner may specify.

53. (1) The returns under section 41 shall be signed in the case of a domestic insurer by the Chairman, one Director, the principal officer of the insurer and in the case of a foreign insurer by the Chairman, one Director, the principal officer of the insurer or the principal representatives of the insurer in Sierra Leone and the auditor.

Authentication of accounts and abstracts.

(2) The returns under section 50 shall be signed by an actuary and by all the persons mentioned in subsection (1) excluding the auditor.

(3) The returns shall be furnished to the Commissioner four copies of which at least two shall be authenticated in the manner set out in subsection (1) or (2).

54. (1) Every document filed for the purpose of registration, amendment or correction and every return furnished to the Commissioner under sections 41 and 50 or a certified copy thereof, shall be kept by the Commissioner and shall be opened to inspection; and any person may procure a copy of the document or return or any part of it on payment of the prescribed fee.

Inspection of documents and supply of copies.

(2) A printed or certified copy of the statement of accounts and abstract furnished in accordance with the provisions of sections 41 and 50 shall, on the application of any shareholder or policyholder made any time within one year from the date on which the document was so furnished, or required to be furnished, be supplied to him by the insurer.

55. (1) Every return furnished to the Commissioner which has been certified by the Commissioner to be a return so furnished shall be deemed to be a return so furnished.

Evidence of documents.

(2) Every document purporting to be certified by the commissioner to be a copy of a return shall be received in evidence as if it were the original return unless some variation between it and the original return is proved.

56. (1) No person shall carry out the activities of an actuary unless that person is registered and accredited by a reputable institution

Qualification of actuaries.

(2) A person who contravenes this section commits an offence and shall be liable on summary conviction to a fine not exceeding Le20,000,000.00 or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

PART V—INVESTMENTS BY INSURANCE COMPANIES

Investments.

57. (1) Every insurer shall at all times in respect of the insurance business transacted by it in Sierra Leone invest and hold invested in Sierra Leone assets equivalent to not less than the amount of the funds in such insurance business as shown in the balance sheet.

(2) Subject to any other provision of this Act, the investment of insurance funds referred to in subsection (1) shall comprise the following-

- (a) in respect of life insurance fund—
 - (i) 50% in Government securities; and
 - (ii) 50% in such other investments as the insurer may determine.
- (b) in respect of insurance business other than life insurance business—
 - (i) 25% in Government securities; and
 - (ii) 75% in such other investment as the insurer may determine.

(3) The Minister may, after consulting the Commission by order vary the percentage of insurance funds to be invested.

(4) If any insurer at any time is unable to meet his debts without realising some or all of his assets required to be invested under this section, an application may be made in the prescribed form and in the prescribed manner to the Commissioner, who, after making such further investigation as may be necessary allow the insurer to realise such part of the assets invested under this section as he thinks fit.

(5) An insurer who has been allowed to realise assets under subsection (4) shall be deemed to comply with the provisions of this section if the assets fall short of the amount required to be invested under this section by such sum as does not exceed the amount of assets allowed to be realised under subsection (4).

58. (1) Every insurer registered under this Act carrying on life insurance business shall every year along with his account returns, submit to the Commissioner a return on the prescribed form showing as at the 31st day of December of the previous year the assets held invested in accordance with section 57 and all other particulars to establish that the requirements of that section have been complied with.

Statement of investments of assets and liabilities relating to life insurance business.

(2) The Commissioner may require any insurer to whom subsection (1) applies to submit on the 1st day of May, 1st day of August and 1st day of November a return showing the assets held invested on 31st day of March, 30th day of June and 30th day of September of each year.

59. The Commissioner may at any time, take such steps as he considers necessary for the inspection or verification of the assets invested in pursuance of section 57 or for the purpose of securing the particulars necessary to establish that the requirements of that section have been complied with; and the insurer shall comply with the requisition made by the Commissioner and if he fails to do so within two weeks from the receipt of the requisition he shall be deemed to have defaulted in complying with the requirements of section 57.

Verification of assets

60. (1) No insurer shall grant loans or temporary advances either on hypothecation of property or on personal security or otherwise any director, managing director, general manager or principal officer of the insurer by whatever name called or to any other company or firm in which such director, managing director, general manager or principal officer holds the position of director, manager, secretary, officer or partner, except loans on life policies issued by it within their surrender value.

Prohibition of loans to Directors

(2) Nothing in this section shall apply to loans made by an insurer to a banking company.

(3) Where any event occurs giving rise to circumstances the existence of which at the time of the grant of any subsisting loan would have made such grant a contravention of this section, such loan shall, notwithstanding any contract to the contrary, be repaid within three months from the occurrence of such event; and in case of a default, the director, managing director, general manager or principal officer by whatever name called shall, without prejudice to any other penalty which he may incur, cease to hold office with the insurer granting the loan on the expiry of the three months.

(4) Nothing in this section shall prohibit a company from granting such loans or advances to a subsidiary company or to any other company of which the company granting the loans or advance is a subsidiary company.

PART VI—INVESTIGATION OF INSURERS

Commissioner
to investigate
affairs

61. (1) The Commissioner may, at any time, investigate the affairs of an insurer and may for this purpose employ an auditor or any other person as he thinks fit.

(2) It shall be the duty of every manager, managing director, officer or employee of the insurer to produce to the Commissioner or the person appointed by him to conduct the investigation, all such books of account, registers and other documents in his custody or power and to furnish him with any statement or information relating to the affairs of the insurer within such time as the Commissioner or the person appointed by him to conduct the investigation may require.

(3) The Commissioner or the person appointed by him to conduct the investigation may examine any director, the managing director, manager, officer, employee or agent of the insurer on oath on any matter pertaining to the affairs of the insurer.

(4) When an investigation is made under this section, the Commissioner may, after giving an opportunity to the insurer to make a representation in writing or be heard in person, in writing—

- (a) require the insurer to take such action in respect of any matter arising out of the investigation as he thinks fit to secure compliance with this Act; or
- (b) cancel the registration of the insurer under paragraph (a) of subsection (1) of section 33;
- (c) apply to the Court for the winding up of the insurance business whether the registration has been cancelled or not;
- (d) make a recommendation to the Minister—
 - (i) for the removal or suspension of any director, manager, officer or employee who, in the opinion of the Commissioner, should be removed or suspended or for the appointment of any person who has had proper training and experience to advise the insurer in rectifying matters and whose remuneration shall be paid by the insurer; or
 - (ii) without prejudice to subparagraph (i), for taking any other step as an alternative or in addition to the action taken under sub-paragraph (i).

(5) The Minister may, after considering the recommendation under paragraph (d) of subsection (4) and giving an opportunity to the insurer to make a representation in writing or be heard in person make such order as he thinks fit.

(6) All expenses of and incidental to any investigation made under this section shall be defrayed by the insurer, and shall have priority as debts due from the insurer, which shall be recoverable as arrears of the State.

Inspection of books, documents etc.

62. All books, records, registers and documents of every domestic insurer in respect of all insurance businesses, and in the case of every registered foreign insurer in respect of the insurance business transacted by him in Sierra Leone, shall at all reasonable times be open to inspection by the Commissioner or any other person appointed by him for that purpose.

Power to call for information

63. (1) The Commissioner may by notice in writing require any insurer to supply him with any information relating to his insurance business and the insurer shall comply with such requirement within such period as may be specified in the notice.

(2) Any information supplied under this section shall be certified by the principal officer or the principal representative as the case may be, of the insurer and if the notice so requires, also by an auditor or an actuary or both.

PART VII—AMALGAMATION, TRANSFERS, AND WINDING-UP

Transfer of life insurance policies

64. (1) Notwithstanding any provision to the contrary in this Act, where an insurer transacting life insurance business exclusively or with any other insurance business intends to transfer his entire insurance business or his life insurance business to another insurer, he shall apply to the Commissioner for approval of the transfer.

(2) The Commissioner may, after hearing the applicant, the insurer to whom the business is to be transferred, the policy-holders of the applicant and any other interested person as the Commissioner may think fit, approve the transfer subject to such conditions as he may specify.

(3) No application shall be made to the Commissioner under subsection (1) unless—

- (a) a notice of the intention to apply had been published in the Gazette by the applicant; and
- (b) a statement of the nature of the proposed transfer together with an abstract containing the material facts related to such transfer and such other matters as may be prescribed, have been sent to each policy-holder and the proposed transfer at the time as the publication referred to in paragraph (a).

(4) A policy-holder of a transferor may, instead of becoming a policy-holder of the transferee, in writing elect to—

- (a) surrender his policy and accept the surrender value of the policy, whereupon the amount the surrender value shall be paid to him; or
- (b) accept a paid-up policy whereupon the actual value shall be deposited in trust with the Bank of Sierra Leone or with any person authorised in that behalf by the Bank of Sierra Leone to be made available to the policy-holder on fulfilment of the contract.

65. Where an amalgamation takes place between any two or more insurers or where the business of an insurer is transferred, the insurer carrying on the amalgamated business or the person to whom business is transferred as the case may be, shall, within three months from the date of the completion of the amalgamation or transfer, furnish to the Commissioner—

- (a) a certified copy of the scheme, agreement or deed under which the amalgamation or transfer has been effected;

Statement after amalgamation or transfer.

- (b) certified copies of any other reports on which the scheme, amalgamation or transfer was founded; and
- (c) balance sheets and revenue accounts in respect of the insurance business of each of the insurers concerned in the amalgamation or transfer prepared in the forms prescribed under section 41 or as near to them as possible.

Margin of solvency

66. (1) If at any time the market value or book value of the investments made out of the funds of an insurer carrying on life insurance and long term insurance business is not more than nine-tenths of the actuarial liability of the business, in addition to any claims outstanding at the end of the calendar year in respect of the business, the Commissioner may give notice to the insurer to increase the investments of the life fund by a transfer to the life fund out of the capital or any other resources of the insurer, within a period not exceeding four months from the date of the notice.

(2) If, at any time, the market value of the investments at the end of any year of an insurer transacting general insurance business (excluding the investments made in respect of life insurance business and long term insurance business, if the insurer carries on those businesses) is less than two-fifths of the gross direct premium written by him in Sierra Leone within a period not exceeding two months from the date of the notice.

(3) If the insurer to whom a notice under subsection (1) or subsection (2) has been issued fails to submit a statement showing the increase of the investment together with a statement as to how the increase was effected before the expiry of the notice, the insurer shall be deemed to have contravened the provisions of this Act and shall be deemed to be an insolvent insurer.

(4) For the purposes of this section the market value of any investment shall be the realisable value as can most easily and satisfactorily be ascertained and if there is a difference in opinion between the Commissioner and an insurer relating to the value of any investment the matter shall be referred to the Commission whose decision shall be conveyed to the Commissioner and the insurer within two months of the date of the reference.

67. The Commissioner may apply to the Court for the winding-up of any insurance business on the following grounds—

- (a) that a period of more than six months has elapsed since the cancellation of the insurer's registration;
- (b) that it appears from the returns furnished under this Act or from the results of any investigation made under it that the company is insolvent;
- (c) that the insurer is deemed to be insolvent under section 66; or
- (d) that the continuance of the company is prejudicial to the interest of policy-holders.

68. Notwithstanding anything contained in the Companies Act, an insurance company shall not be wound up voluntarily except for the purpose of effecting an amalgamation or a reconstruction or on the ground that by reason of its liability it cannot continue its business.

69. The Minister may by Statutory Instrument make rules determining—

- (a) the extent to which the rules made under the Companies Act shall apply to the winding up of insurance companies;

- (b) the manner in which the assets and liabilities of an insurance business which is being wound up shall be determined;
- (c) the manner in which the interest of holders of life insurance policies and long term insurance policies shall be safeguarded incase the insurance business being wound up carries on life insurance business along with other classes of insurance business;
- (d) the manner in which the insurer, may carry on business with reduced contracts if the Commission is of the view that continuation of the business of the insurer is more equitable to the policy-holders than winding up;
- (e) the manner in which the insurance business being wound up may be amalgamated with any other insurer or his business may be transferred to any other insurer.

Right of hearing of Commissioner

70. (1) The Commissioner shall be heard by the Court in any matter relating to the winding up of an insurance company.

(2) Without prejudice to the generality of subsection (1), the Court shall hear the opinion of the Commissioner if any scheme under paragraph (d) or (e) of section 69 is contemplated.

Control over liquidators

71. The power of the registrar referred to in the Companies Act 2009 shall be exercised by the Commissioner in relation to liquidators of insurance companies.

PART VIII- REINSURANCE BROKERAGE

72. (1) No reinsurance broker shall undertake reinsurance broking unless the reinsurance broker applies for a reinsurance brokerage licence from the Commission. Reinsurance brokerage Licence.

(2) The Commission may issue a reinsurance broking licence to a reinsurance broker if it is satisfied that—

- (a) the reinsurance broker has the required expertise to conduct the class of reinsurance business ;
- (b) at least one partner or director of a reinsurance broking firm or company has at least five years working experience in the middle level management of a reinsurance company or reinsurance department of an insurance company;

(3) No reinsurance broker shall carry on the business of reinsurance brokering unless the reinsurance broker has statutory deposit of not less than sixty million Leones to be deposited at the Bank of Sierra Leone.

(4) A reinsurance broker who contravenes this section commits an offence and shall be liable on summary conviction to fine not exceeding Le 10,000,000.00 and the reinsurance business transacted shall be terminated.

PART IX—REGISTRATION OF INSURANCE AGENTS, CHIEF AGENTS, BROKERS, ADJUSTERS AND ASSESSORS

73. (1) No person shall act as or carry on as insurance agent or chief agent or assessor six months after the commencement of this Act unless he obtains a licence in the prescribed form authorising him to act as such or to carry on such business. Insurance agents and assessors to be licenced.

(2) The licences that may be issued under the provisions of this section in respect of agents shall be the following—

- (a) insurance agent in respect of life insurance business;
- (b) insurance agent in respect of general insurance business;
- (c) chief agent in respect of life insurance business;
- (d) chief agent in respect of general insurance business.

(3) An applicant for the licence of an insurance agent in respect of life insurance business and chief agent in respect of life insurance business shall be an individual.

(4) An assessor shall be an individual or a company.

(5) An applicant for a licence under this section shall apply to the Commission in the form prescribed for the particular licence he desires to hold, and forward with the application such documents as may be prescribed for that licence.

(6) If the Commission is of the opinion that applicants for a particular class of licence should possess educational, technical professional qualifications it may by notification in the Gazette specify the qualifications and the date with effect from which applicants for new licences of that class should possess those qualifications.

(7) The licence granted under this section shall be for a period of one year and shall be renewed every year on an application made in the prescribed form and in the prescribed manner to the Commission:

Provided that no application for renewal shall be entertained one year after the expiry of the licence.

(8) The Commission shall prescribe the fee for the grant or renewal of a licence.

(9) The Commission on being satisfied that the applicant for a licence has complied with the requirements of the law may direct the Commissioner to grant the licence.

(10) The Commission may refuse the application for a licence for a reason to be recorded in writing.

(11) If any person acts as an agent, chief agent or assessor without holding a valid licence he shall be guilty of an offence and shall, on summary conviction be liable to a fine not exceeding Ten million leones or to a term of imprisonment not exceeding twelve months or to both such fine and imprisonment.

74. (1) An insurance agent or chief agent shall work for the insurer or insurers specified in the licence issued under section 73 to work paragraph

Holder of licence for specified insurers

(2) If, for any reason, an insurance agent or chief agent wishes to terminate his association with any insurer and work for another he may apply to the Commission to amend the licence in this behalf.

(3) The Commission may, after satisfying itself that the holder of a licence does not owe any amount to the insurer, grant the application.

75. (1) No person who-

(a) is under the age of twenty-one years;

(b) is found by a court to be of unsound mind;

(c) is an undischarged bankrupt;

(d) has been convicted by a court of an offence involving dishonesty, criminal misappropriation or criminal breach of trust or cheating or forgery or an abetment of or an attempt to commit such offence; or

Disqualification of insurance agents etc.

- (e) has been found guilty of dishonesty or gross professional misconduct in any financial institution,

shall be granted a licence under section 73.

(2) The Commissioner may cancel the licence of a holder, if the holder-

- (a) suffers from any of the disabilities under subsection(1);
- (b) induces a prospect to insure with an insurer not registered under this Act;
- (c) knowingly contravenes any provision of this Act or any rule or order made under it;
- (d) knowingly procures by fraudulent representations payment of or the obligation for payment of any premium on an insurance policy; or
- (e) collects insurance premium under any policy when he is not authorised to do so, or having authority to collect premium retains it for a period longer than he is entitled to.

(3) The cancellation of a licence shall be without prejudice to any penalty of which the holder of the licence may be liable to.

Filing
contracts with
Commissioner.

76. (1) Every insurer shall forward to the Commissioner a copy of the contract offered to every class of licence holder specified in subsection (2) of section 73 or subsection (1) of section 79.

(2) If, any insurer deviates from the contract filed with the Commissioner, he shall forward to the Commissioner a statement showing the deviation between the contract offered and the specimen filed with the Commissioner.

77. If at any time the Commissioner is of the opinion that there is need to regulate the contracts between insurers and any or all the classes of agents specified in subsection (2) of section 73, he may, by notification in the Gazette, specify the conditions that will be deemed to be included in the contracts of all or any of the classes of agents.

Regulation of
contracts of
agents.

78. The Commissioner may, by notice in writing, require any insurance agent, special agent or chief agent to supply him with any information relating to his insurance business and the insurance agent, special agent or chief agent shall comply with such requirement within such period after the receipt of the notice as may be specified in the notice.

Power to call
for
information
from agents.

79. (1) No person shall act in Sierra Leone as an insurance intermediary unless he is registered as such under this Act.

Registration
of insurance
Intermediaries.

(2) Nothing in subsection (1) shall apply to a person who has acted in Sierra Leone as an insurance intermediary on or before the commencement of this Act if-

- (a) immediately before the commencement he was acting in Sierra Leone as an insurance intermediary; and
- (b) within three months after the commencement he applies for registration, and is registered within that period.

80. (1) No person shall qualify for registration as an insurance broker or insurance adjuster unless it is a company or a partnership.

Qualifications
of insurance
brokers and
adjusters.

(2) In the case of a partnership one of the partners and in the case of a company the chief executive shall have the following professional qualification-

- (a) Associate of the Chartered Institute of Insurance;

- (b) a holder of a University degree in insurance or its equivalent; or
- (c) a holder of a West African Insurance Institute (W.A.I.I.) Diploma plus at least ten years experience in the insurance industry.

(3) No insurance broker or adjuster shall carry on the business of insurance brokering or insurance adjusting in Sierra Leone unless the broker or adjuster has and maintains at all times while carrying on that business a paid-up share capital of not less than fifty million leones to be deposited with the Bank of Sierra Leone in Government securities, as security deposit and a professional indemnity cover of not less than one hundred million leones.

(4) The Minister may, on the advice of the Commission by statutory instrument increase the minimum paid-up capital and the professional indemnity cover requirements specified in subsection (1)

(5) An insurance broker or adjuster shall prepare in the prescribed form and furnish to the Commission within three months after the end of each financial year—

- (a) a report covering the prescribed particulars relating to all insurance transactions undertaken by it during that financial year;
- (b) a certified true copy of its financial statement and annual report; and
- (c) any other information that the Commission may request.

(6) Where an insurance business is transacted through an insurance broker, the insurance broker shall not less than 30 days of collecting the premium pay to the insurer the amount collected by him.

(7) An agent shall not receive premium in his own name but in the name of his principal and shall remit such premium received to the insurance company concerned within five working days.

(8) A person who contravenes this section commits an offence and shall be liable on summary conviction to a fine not exceeding ten million Leones or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.

81. (1). The Commissioner -

- (a) may cancel or suspend the registration of any insurance intermediary on any ground on which it could have refused to grant the application for registration; and
- (b) shall cancel the registration of any broker or adjuster who fails to satisfy the paid-up capital and security deposit requirement under subsection (3) of section 80.

Cancellation
of
registration.

(2) Before cancelling or suspending any registration the Commissioner shall give notice in writing to the insurance intermediary concerned setting out the grounds for the proposed cancellation or suspension and shall afford the insurance intermediary an opportunity to be heard by the Commission.

(3) Upon cancellation of registration, the relevant certificate of registration shall be surrendered by the holder to the Commission.

82. (1) An application for registration as an insurance intermediary shall be made to the Commission by any person who has the prescribed qualification.

Application
for
registration as
insurance
intermediary.

(2) Every application shall be in such form, contain such particulars and shall be made in such manner as may be prescribed.

Records to be kept by insurance intermediaries

83. (1) Every insurance intermediary shall keep records of all insurance transactions undertaken by him.

(2) Records kept by virtue of subsection (1) shall contain particulars as to the names and addresses of the insured persons and the insurers under coverages procured by the insurance intermediary, the nature of the coverages, the premiums collected and such other particulars as may be prescribed.

Power of Commissioner to investigate insurance intermediaries

84. For the purpose of satisfying himself as to whether or not provisions of this Act are being complied with, the Commissioner may at anytime-

- (a) authorise an investigator to conduct an examination of the business of any insurance intermediary as may be deemed reasonable in the circumstances; and
- (b) by notice in writing require any insurance intermediary to produce any document or information on any matter relating to insurance contracts negotiated or solicited by such intermediary.

PART X—PROVISIONS RELATING TO POLICY CONTRACTS

Jurisdiction of local courts in respect of insurance policies.

85. Every policy issued in Sierra Leone to a person resident in Sierra Leone shall be governed by the Laws of Sierra Leone and shall be subject to the jurisdiction of the courts of Sierra Leone notwithstanding any provision to the contrary in the policy or in an agreement relating to the policy.

Policy not invalid owing to failure to comply with the law.

86. No insurer whether registered under section 16 or not shall plead non-compliance with this Act or any other law for the time being in force in his defence in relation to any claim arising out of any policy issued by him.

87. If the Commissioner is of the opinion that an adequate proportion of the profits arising from life insurance business is not being distributed, allocated or allotted to the holders of life insurance policies in Sierra Leone, he may by notification in the Gazette regulate the proportion of the profits that may be distributed or allocated to the holders of life insurance policies in Sierra Leone.

Distribution of profits of life insurance business

88. (1) No insurer shall amend or change the conditions of a contract in respect of life insurance business during the currency of the policy except with the consent and concurrence of the policy holder.

Rights of holders of life insurance policies.

(2) A life insurance policy shall not be cancelled by the insurer except for non-payment of any premium due within the days of grace which shall not be less than thirty days if the premium is payable, at intervals of not less than three months, seven days if the premium is payable monthly, and three days if the premium is payable weekly:

Provided that nothing shall prevent the revival or restoration of a cancelled policy contract on the same or modified terms if the insured complies with such conditions for the revival of the contract as may be specified in the policy.

(3) A life insurance policy shall not be cancelled by reason of non-payment of any premium due, if the insured has paid premium continuously for such minimum number of years as may be specified in the policy:

Provided that this benefit shall be available only in respect of such contracts under which the whole of the benefits becomes payable either on the occurrence, or at a fixed interval or fixed intervals after the occurrence of a contingency.

(4) If the Commissioner is of the opinion that the benefits available to the holder of a life insurance policy in case he ceases to pay premium, are not fair and equitable to the policy-holder, he may after giving the insurer an opportunity of being heard, lay down the conditions which the policy-holder shall fulfil to secure the benefits and the formulae and basis on which the benefits available shall be calculated.

Assignment of life insurance policies.

89. (1) A transfer or assignment of a policy of life insurance whether with or without consideration may be made by endorsement upon the policy itself or by a separate instrument signed in either case by the transferor or assignor or his duly authorized agent and attested by at least one witness specifically setting forth the fact of the transfer or assignment.

(2) The transfer or assignment shall be complete and effectual upon the execution of such endorsement or instrument duly attested.

(3) Where the assignment or transfer is in favour of the insurer it shall not be operative against him and shall not confer upon the transferor or assignor or his legal representative any right to sue for the amount of such policy or the money secured thereby until a notice in writing of the transfer or assignment and either the said endorsement or instrument itself or a copy certified to be correct by both transferor and transferee or their duly authorised agents have been delivered to the insurer at his principal place of business in Sierra Leone.

(4) The date on which the notice referred to in subsection (3) is delivered to the insurer shall regulate the priority of all claims under a transfer or assignment as between persons interested in the policy and where there is more than one instrument or transfer or assignment the priority of the claims under such instrument shall be governed by the order in which the notice referred to in subsection (3) is delivered.

(5) Upon the receipt of the notice referred to in subsection(3), the insurer shall record the fact of such transfer or assignment together with the date and the name of the transferee or the assignee and shall, at the request of the person who gave the notice or the transferee or assignee on payment of the prescribed fee grant a written acknowledgement of the receipt of such notice which shall be conclusive evidence against the insurer that he has duly received the notice to which such acknowledgment relates.

(6) Subject to the terms and conditions of the transfer or assignment the insurer shall, from the date of the receipt of the notice referred to in subsection (3), recognise the transferee or assignee named in the notice as the only person entitled to benefit under the policy and such person shall be subject to all liabilities and equities to which the transferor or assignor was subject at the date of the transfer or assignment may institute any proceeding in relation to the policy without obtaining the consent of the transferor or assignor or making him a party to such proceedings.

(7) Any rights and remedies of an assignee or transferee of a policy of life insurance under an assignment or transfer effected prior to the commencement of this Act shall not be affected by the provisions of this section.

(8) Notwithstanding any law or custom having the force of law to the contrary, an assignment in favour of a person made with the condition that it shall be inoperative or that interest shall pass to some other person on the happening of a specified event during the life time of the person whose life is insured and an assignment in favour of the survivor or survivors of a number of persons shall be valid.

90. Any person who, in any return, report, certificate, balance sheet or other document required by or for the purposes of any of the provisions of this Act knowingly makes a statement which is false in any material particular, commits an offence and shall be liable on summary conviction to a fine not exceeding ten million leones or to imprisonment for a term not exceeding three years or both

Penalty for false statements.

91. (1) Any person who contravenes any provision of this Act for which no penalty has been specified, commits an offence and shall be liable on summary conviction to a fine not exceeding ten million leones or to a term of imprisonment not exceeding two years or to both.

General provisions relating to penalties and offences.

- (2) Where an offence is committed by a body of persons-
- (a) in the case of a body corporate every director, manager, secretary or other similar officer shall also be deemed to be guilty of the offence; and
 - (b) in the case of a partnership every partner or officer of that body shall also be deemed to be guilty of the offence

provided that no person shall be deemed to be guilty of an offence under this subsection if he proves that the act in respect of which he is charged was committed by some other person without his consent or connivance and that he exercised all due diligence to prevent the commission of that act as he ought to have exercised having regards to the circumstances.

Prosecution of offences.

92. All offences under this Act shall be prosecuted before the High Court.

Power of court to grant relief.

93. If in any proceedings, civil or criminal, it appears to the Court hearing the case that a person is or may be liable in respect of negligence, default, breach of duty or breach of trust, but that he has acted honestly and reasonably and that having regard to all the circumstances of the case he ought fairly to be excused for the negligence, default, breach of duty or breach of trust, the Court may relieve him either wholly or partly from his liability on such terms as it may think fit

Action of Commission etc to be reviewed.

94. (1) Any person aggrieved by any of the following actions or orders of the Commission or Commissioner as the case may be that is-

- (a) an order refusing to register an insurance business;
- (b) an order cancelling the registration of an insurance business;
- (c) an order cancelling a licence under this Act

may appeal to the court within thirty days of the order.

(2) Any person aggrieved by an action or order of the Commission or Commissioner other than an order to which subsection (1) applies may appeal to the Minister against the order within thirty days of the date of the order giving the grounds of referring the case for review, and the Minister after giving an opportunity to the Commissioner to contest the grounds of appeal may decide whether to allow or dismiss the appeal.

PART XI—MISCELLANEOUS

95. The Commissioner shall cause the registration of or cancellation of registration of an insurance business to be published in the Gazette.

Publication of registration and cancellation of registration in the Gazette.

96. Every insurer shall be subject to the provisions of this Act in relation to any class of insurance business so long as its liabilities in Sierra Leone in respect of business of that class remain unsatisfied or not otherwise provided for.

Insurers to be subject to the Act while liabilities remain unsatisfied

97. The Minister may on an application being made to him in this behalf in the prescribed form exempt any insurer from all or any of the provisions of this Act in relation to any class of his business where such insurer has ceased to enter into any new contract of the class of business.

Exemption from Act to certain insurers ceasing to transact business.

98. (1) An insurance business shall not be registered by a name identical to that by which any insurance business in existence is already registered or so nearly resembling that name as to be likely to deceive, except where the insurance business in existence is in the course of being dissolved and signifies its consent to the Commission.

Similarity of names of insurers.

(2) If any insurance business, through inadvertence or otherwise, is without such consent registered by a name identical with that by which an insurance business already in existence whether previously registered or not is carrying on business or so nearly resembling it as to be likely to deceive, the first mentioned insurance business shall if called upon to do so by the Commission on the application of the second mentioned insurance business, change its name within a time to be fixed by the Commission.

Service of notice.

99. (1) A direct insurance broker or reinsurance broker who places a business of insurance with a foreign insurance company shall-

- (a) serve the Commission notice of the contract before placement of risk;
- (b) include any commission received on the transaction

(2) An insurer who places a business of insurance with foreign insurance company on fronting basis shall

- (a) serve the Commission notice of the contract before placement of risk;
- (b) include any commission received on the transaction as part of the gross commission received by the insurer during the relevant year.

(3) A person who contravenes this section commits an offence and shall be liable on summary conviction to a fine of Le 30,000,000.00

Reserves of reinsurers.

100. (1) A reinsurer shall establish and maintain in respect of each class of insurance business-

- (a) reserves for unexpired risk;
- (b) reserves for outstanding claims; and
- (c) contingency reserves to cover fluctuations in securities and variations in statistical estimates.

(2) A reinsurer shall maintain in respect of insurance business other than life insurance business-

- (a) the reserves for unexpired risks amounting to not less than forty five percent of the total net premiums in the case of insurance business other than marine insurance business;

(b) the reserves for unexpired risks amounting to not less than seventy five percent of the net premium in the case of marine hull insurance business

(c) the reserves equal to the total estimated amount of all outstanding claims together with a further amount representing twenty five percent of the estimated amount of outstanding claims in respect of claims incurred but not reported at the end of the last preceding year in the case of reserves for outstanding claims;

(d) reserves less than three percent of the total premiums or twenty percent of the net profits whichever is the greater and such amount shall accumulate until it reaches the minimum paid up share capital or fifty percent of the net premiums whichever is the greater, in the case of contingency reserves.

(3) A reinsurer shall maintain with respect to the life insurance business-

(a) a general reserve fund which shall be credited with an amount equal to the net liabilities on policies in force at the time of the actuarial valuation; and

(b) contingency reserves which shall be credited with an amount equal to the one percent of the premiums.

101. (1) Any notice issued under any provision of this Act or any process in legal proceedings may be served upon a person carrying on insurance business by leaving it at the principal office of the insurer.

Service of process upon insurer

(2) If the principal office of a person carrying on insurance business cannot reasonably be found, any notice or process in any legal proceedings may be served by leaving it at the office of the Commissioner.

(3) Service of process upon the Commissioner in accordance with subsection (2) shall be deemed to be service upon the insurer.

Restriction on the use of the word insurance.

102. (1) After the expiry of three months from the commencement of this Act, no person other than an insurer registered under this Act or the holder of a licence under sections 73 and 79 shall have or use the word insurance or assurance or any derivative in the name under which such person is carrying on business.

(2) No holder of a licence under sections 73 and 79 shall use any words as part of his business name which indicate that he is an insurer.

Summary of returns to be published.

103. The Minister shall, every year, cause to be published in such manner as he may direct a summary of the accounts, balance statements, abstracts and other returns under this Act or purporting to be under this Act which have been furnished in pursuance of the provisions of this Act, to the Commissioner during the year preceding the year of publication and may append to such summary any note of the Commissioner and any correspondence.

Advertisement.

104. No advertisement shall be issued by an insurer or by an agent licensed under section 73 which directly or by implication has the tendency to mislead or deceive prospective policy-holders with respect to the assets, corporate -structure, financial standing, age or relative position in the insurance business or any other material respect of insurer or the agent as the case may be, or of any competitor of the insurer or agent.

Exceptions.

105. Nothing in this Act shall apply to any Trade Union registered under the Trade Unions Act and such Friendly Societies registered under the Friendly Societies Act, as may be exempted from all or any of the provisions of this Act, by an order in writing by the Commissioner on an application made to him on his behalf.

Properties and liabilities to be insured in Sierra Leone.

106. All properties and liabilities within Sierra Leone shall be insured with an insurer registered under this Act.

Insurance of imports to be effected in Sierra Leone.

107. (1) Subject to subsection (3) an insurance in respect of goods to be imported into Sierra Leone shall, after the commencement of this Act, be made with an insurer registered under this Act.

(2) An enactment, contract or instrument shall be construed with such modifications, amendments or omissions as would be necessary to bring it into conformity with subsection (1).

(3) Notwithstanding subsection (1), where any insurer or insurance broker satisfies the Commissioner that he does not underwrite such insurance, the Commissioner may in writing permit such insurer or broker to effect the insurance outside Sierra Leone.

108. (1) Every medical practitioner, dental surgeon, pharmacist nurse or laboratory technician practising in Sierra Leone shall within such time after the coming into operation of this Act as the Minister after consultation with the Minister responsible for health shall determine, insure the practice.

Compulsory indemnity insurance for certain professionals.

(2) Subsection (1) does not apply to medical practitioners, dental surgeons, pharmacist, nurses and laboratory technicians practising in public institutions.

(3) Any person who contravenes subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding Le 10,000,000.00 or to a term of imprisonment not exceeding two years or to both the fine and imprisonment.

109. The Commission may delegate any of its functions to the Commissioner where it considers necessary.

Commission to delegate functions.

110. The Minister may after consultation with the Commission by statutory instrument make regulations, rules or orders prescribing any thing to be prescribed or generally for the purpose of giving effect to this Act.

Regulations.

111. (1) The Insurance Act 2000 is hereby repealed.

Repeal.

(2) Notwithstanding the repeal or revocation of the Insurance Act 2000 any orders, rules or regulations made under that repealed Act and in force at the commencement of this Act shall continue in force unless revoked.

112. A licence issued under the repealed Act and which is in force before the commencement of this Act shall continue to have effect from the commencement of this Act as if granted under this Act.

Transitional Provision.