

Annexure A**Regulation of Insurance Industry (Amendment Act) No..... of 2025****Amendments regarding transferring of unclaimed benefits of the insurers to a separate account**

1. The following new section is hereby inserted immediately after section 103 of the principal enactment and shall have effect as section 103A of that enactment -

Unclaimed benefit fund

1. The Commission shall establish a separate fund in the name of "Unclaimed benefit Fund" (referred to in this section as "Fund") to which shall be credited all monies received by the Commission from the insurers carrying on long-term insurance business that arise from unclaimed benefits held by the insurers.
2. The monies lying to the credit of the Fund shall be held by the Commission for payments of claims to the policyholders or their beneficiaries upon receipt of such claim through the insurer in the manner directed to the insurers by the Commission.
3. Any part of the monies of the Fund which is not immediately required for the purpose referred to in subsection (2) above, shall be invested by the Commission in such prudent manner as would yield a good return and safeguard the investment and interest on the said investment shall be credited to the said Fund.
4. The Commission may determine the manner in which the Fund to be managed and administered by the Commission, by rules made on that behalf.
5. The Commission may charge a management fee for managing the said Fund and said charge shall be paid into Fund of the Commission under Section 6 of the Act.

Include provisions to impose penalties on the regulatees for selected non-compliance.

2. Section 18 of the principal enactment is hereby repealed.
3. Section 19 of the principal enactment is hereby repealed.
4. Section 33E of the principal enactment is hereby repealed.
5. Section 54 of the principal enactment is hereby amended by the repeal of subsection (5) of that section.
6. Section 57 of the principal enactment is hereby amended by the repeal of subsection (3) and (4) of that section.
7. Section 67 of the principal enactment is hereby repealed.

8. Section 93 of the principal enactment is hereby repealed.
9. The following new Part is hereby inserted immediately after section 93 of the principal enactment and shall have effect as PART IXA of that enactment: —

PART IXA

ADMINISTRATIVE SANCTIONS

Cancellation or suspension of license

93A. (1) The Commission may cancel or suspend the license and/or registration of an insurer or broker, either wholly or in respect of a particular class or sub-class of insurance business, for any one or more of the following reasons or grounds, namely, that the insurer or broker: -

- (a) has not commenced business within twelve months after being registered;
- (b) has ceased to carry on insurance business in respect of any class of business;
- (c) proposes to make or has made any composition or arrangement with its creditors or has gone into liquidation or has been wound up or otherwise dissolved;
- (d) is carrying on its business in a manner likely to be detrimental to the interests of its policyholders or to the development of the insurance industry or the national interest;
- (e) is unable to meet its obligations;
- (f) has failed to maintain the capital adequacy of such amount as is determined by the Commission under section 26;
- (g) has contravened any provision of this Act or any regulation or rule made thereunder, or any condition imposed, or any direction given or determination made by the Commission under this Act;
- (h) has furnished false, misleading or inaccurate information, or has concealed or failed to disclose material facts, in its application for registration or in any information or document submitted to the Commission;
- (i) has ceased to be of good financial standing;
- (j) has since the grant of the license, been disqualified for the grant of license; or
- (k) is found guilty of any malpractice or irregularity in the management of its affairs.

- (2) The Commission may, for any one or more reasons or grounds specified in subsection (1), and by notice sent in that behalf, suspend the license and /or registration granted to an insurer for a period not exceeding three weeks, without prejudice to such insurer's responsibility to meet its obligations under policies already issued, and the insurer shall thereafter be prohibited from issuing new insurance policies until the suspension is removed.
- (3) The notice referred to in subsection (2), shall specify the period of suspension and the date before which the insurer is required to show cause to the Commission why such suspension should be removed.
- (4) On receipt of an insurer's response to the notice sent under subsection (2), the Commission may -
 - (a) where an insurer shows sufficient cause as to why the suspension should be removed, immediately remove the suspension; or
 - (b) where the Commission is not satisfied with the response of the insurer, either extend the period of suspension already imposed, or cancel the registration, as the case may be.
- (5) Where the Commission decides under subsection (4) to cancel or suspend for a further period the registration of an insurer, it shall be its duty to forthwith inform the insurer of the cancellation or suspension as the case may be, and in the event of an extension of a suspension for a further period, the Commission shall further inform the insurer -
 - (a) of the period for which the suspension is being extended;
 - (b) of the action that needs to be taken to rectify or remove the reason or ground which caused the imposition of the suspension; and
 - (c) the time within which the corrective measures referred to in paragraph (b) should be taken.
- (6) Where a registration is cancelled or suspended under subsection (4), it shall be the duty of the licence and /or registration holder whose licence is being cancelled or suspended as the case may be, to forthwith surrender the licence to the Commission, and the Commission shall thereupon -
 - (a) in the case of a cancellation of a registration, cancel the licence ; or
 - (b) in the case of a suspension of a registration for a specified period, make an endorsement to that effect on the face of the licence, and return the licence to the holder thereof.
- (7) Notwithstanding the provisions contained in subsection (6) of this section, the Commission shall have the power to prolong the registration period of the insurer, even the license of the said insurer is cancelled, until the obligation of such insurer is fulfilled towards its stakeholders.
- (8) Notwithstanding the provisions contained in subsections (1) and (2) of this section, the Commission may in lieu of a cancellation or suspension on any one or more grounds referred to in subsection (1), of a license issued to an insurer under this Act, and where the nature of the act or omission referred to therein and which is committed by such insurer is not of such nature as to warrant a cancellation or suspension of the licence, direct the insurer to take such measures as may be determined by the Commission, to -
 - (a) prevent the continuance of such act or omission; and

(b) rectify and set a right the consequences resulting from such act or omission.

(9) An insurer who is aggrieved by a decision made by the Commission under section 93A may, within fourteen days of being informed of such decision, appeal therefrom to the Court of Appeal.

(10) The Court of Appeal may on appeal made under sub-section (8), confirm, revise, modify or set aside the decision against which the appeal is made and may make such order as the interests of justice may require.

Directions

93B. (1) Where the Commission is satisfied that the affairs of any insurer are being conducted in a manner likely to be detrimental to the public or national interest or the interest of the policyholders or prejudicial to the interests of the insurer, the Commission may issue such directions to the insurer as it may consider necessary, and in particular may require the insurer—

- (a) to take such action or recruit such management personnel as may be necessary to enable it to conduct its business in accordance with sound insurance principles;
- (b) to remove any of its directors or any person whom the Commission considers unfit to be associated with it;
- (c) to take action as to the disposition or recovery of any of its assets;
- (d) to take steps for the recovery by the insurer of sums appearing to the Commission to have been illegally or improperly paid; and
- (e) to make such arrangements with respect to reinsurance as the Commission considers necessary.

(2) The Commission may, upon representations being made to it, or on its own motion, modify or cancel any directions issued under subsection (1) and in so doing, may impose such conditions as it thinks fit.

Administrative penalties

3C.

(1) Where,

- (a) Any person who refuses or fails when required to do so under subsection (3) or (4) of section 54 to produce any document in his or her custody or to attend for or submit for examination by the Commission or any person appointed by it, or to answer any question put to him or her on such examination;
- (b) Any insurer who fails to comply with any direction issued to it under subsection (1) of section 93B;

(c) director of an insurer fails to deliver to the administrator in terms of Part VII, any book of account, register or any other document in his or her custody relating to the business of the insurer, the management of which has vested in the administrator, or retains any property of such insurer; or

shall be liable to an administrative penalty of an amount determined by the Commission subject to a minimum sum of Rupees one hundred thousand and not exceeding a sum of Rupees one million.

- (2) Any insurer who fails to maintain the capital adequacy of such amount as is determined by the Commission under section 26, such insurer shall be liable to an administrative penalty of a sum of Rupees ten thousand for each day the non-compliance continues subject to a maximum sum of Rupees one million.
- (3) Any insurer who contravenes the provisions of section 29 (1) in granting any loan to a director or to a company in which such person holds any such position, such insurer shall be liable to an administrative penalty of an amount determined by the Commission not exceeding one third of the sum granted to such director or company.
- (4) Any insurer who contravenes provisions under section 37 shall be liable to an administrative penalty of an amount determined by the Commission subject to a minimum sum of Rupees ten thousand for each day from the date of issue of any policy in contravention of subsection (1) (a) of section 37 until filing of the same, which shall not exceed a sum of Rupees one million.
- (5) Any insurer who contravenes provisions under section 47 (2), 48 (1), 49 (b) or 56 on submissions of the respective returns, audited accounts, reports shall be liable to an administrative penalty of a sum of Rupees ten thousand for each day of delay until submission, subject to a maximum sum of Rupees five hundred thousand.
- (6) Any broker who contravenes the provisions of section 83 by non-submission of the application for renewal of registration within the time specified in said section 83, such broker shall be liable on submission of the delayed application to an administrative penalty of a sum of Rupees ten thousand for each day of delay until submission, subject to a maximum sum of Rupees one hundred thousand.
- (7) Any broker who contravenes provisions of subsections (2) and (3) of section 86 for submission of audited accounts and returns, shall be liable to an administrative penalty of a sum of Rupees ten thousand for each day of delay until submission, subject to a maximum sum of Rupees five hundred thousand.
- (8) Where any insurer or broker fails to appoint a suitable person in terms of sub section (1) of section 94 as Principal Officer of such insurer or broker, subject to approval of Commission, for more than three months without any valid reason acceptable to the Commission, such insurer or broker shall be liable to an administrative penalty of a sum of Rupees ten thousand for each day of delay until submission, subject to a maximum sum of Rupees five hundred thousand.
- (9) Where any insurer fails to appoint a suitable person in terms of sub section (1) of section 32 as Specified Officer for more than three months without any valid reason acceptable to the Commission, such insurer shall be liable to an administrative penalty of a sum of Rupees ten thousand for each day of delay until submission, subject to a maximum sum of Rupees five hundred thousand.
- (10) An insurer who fails to comply with any direction given under paragraph (a) of subsection (2) of section 33D within the period specified in such direction and a director who has been served with a

notice under paragraph (b) of that subsection who continues to function as a director thereafter, shall each be liable to an administrative penalty of -

(a) in the case of the insurer, a sum of Rupees ten thousand for each day of delay until submission, subject to a maximum sum of Rupees five hundred thousand; and (b) in the case of a director of the insurer, a sum of Rupees ten thousand for each day of delay until submission, subject to a maximum sum of Rupees five hundred thousand.

(11) Any insurer or broker who has furnished false information or forged documents in or together with any of the applications, returns, reports and documents required to be submitted under the provision of this Act shall be liable to an administrative penalty of an amount determined by the Commission not exceed a sum of Rupees one million.

(12) The Commission shall give due regard to

- a. The amount of undue gain to the insurer or broker as a result of the contravention or non-compliance, wherever quantifiable;
- b. The amount of loss or damage caused to the policyholders as a result of the contravention or non-compliance, wherever quantifiable;
- c. The continuous occurrence of the contravention or non-compliance;
- d. Proportionality of the amount of the administrative penalty with respect of the contravention or non-compliance;
- e. Any other special factors that occur out of the control of the insurer or broker that resulted in the contravention or non-compliance

When deciding the quantum of the administrative penalty imposed on an insurer or broker.

(13) The Commission shall issue a written notice fourteen days prior to issuing any administrative penalty under this section to every person against whom any administrative penalty will be imposed.

(14) The Commission may provide hearing to any representations made by persons to whom notices under sub-section (4) issued, provided that such representations are made within fourteen days from the date of issuing of the notice or on an extended date granted by the Commission.

(15) Where any person fails or defaults to pay a penalty or any part thereof imposed by the Commission under this section, the sum of money so due may, on application being made ex-parte to the Magistrate's court, be recovered in like manner as a fine imposed by such court, notwithstanding that such sum may exceed the amount of a fine which that court may, in the exercise of its ordinary jurisdiction impose and notwithstanding the provision of any written law to the contrary the sum so imposed shall be paid to the Commission.

(16) If any insurer or broker even after imposing an administrative penalty continues to contravene or fails to comply with any provision of this Act or any direction issued by the Commission under this Act or any regulation, rule or order made under this Act or any conditions imposed or determinations made by the Commission under this Act, the Commission may suspend the registration granted to such insurer or broker, and the provisions of Section 93A shall apply in that regard.

(17) If any contravention of non-compliance in this section is committed by a person who is a director, principal officer, specified officer, or any other officer in the controlling functions of a body corporate, including insurers and brokers, the Commission may impose administrative penalties for such contravention of non-compliance against the said body corporate or unincorporate.

Warnings

93(D). (1) The Commission may warn any insurer or broker or any officer of such insurer or broker for non-compliance with any provision of this Act, or any violation of regulation, rule, direction, determination or condition issued by the Commission, and such warning may be in lieu of any other administrative sanction.

(2) The Commission may warn any insurer or broker where such insurer or broker is in non-compliance with the Financial Transaction Reporting Act, No. 06 of 2006, or with any subordinate legislation issued in terms of said Financial Transaction Reporting Act, No. 06 of 2006 in order to prevent money laundering and financing of terrorism.

(3) Where an insurer or broker or any officer of such insurer or broker receives three warnings from the Commission within consecutive four quarters or three times for the same non-compliance, the Commission may suspend and/or cancel the licence and /or registration granted to such insurer or broker, and the provisions of Section 93A shall apply in that regard and may remove the said Principal Officer of insurer or broker.

Publish enforcement action

93E. The Commission may, where it deems necessary, publish in such form and manner as it thinks fit, any information in relation to—

(a) any enforcement action taken under this Act including criminal proceedings and administrative actions; and

(b) the outcome of actions referred to in paragraph (a), including the outcome of any proceedings regarding any breach or contravention of the provisions of this Act.

93F. The application of this Part of this Act shall not preclude the Commission of taking any other enforcement action against insurers and brokers for which the Commission is lawfully entitled under any other provision of this Act or any regulation, rule, direction, determination or circular permits.

10. The words “fifty thousand rupees” are hereby substituted with the words “one million rupees” in section 90, 91 and 92.

11. The section 60 of the principal enactment is hereby amended by adding the following words immediately after the word “note” in the proviso:

“excluding publishing of information by the Commission under section 93F”

Amendment to the second schedule to permit the Commission Members and employees of the Commission to be appointed as Directors of Insurers in a reduced period of time than 3 years as previously decided by the Commission.

Amendments to expand the scope of disqualifications for being a director of an insurer in line with the fit and proper requirements.

12. The Second Schedule of the principal enactment is hereby repealed and substituted by the following new Second Schedule of this Act-

SECOND SCHEDULE

DISQUALIFICATIONS FOR BEING A DIRECTOR, A MEMBER IN THE SENIOR MANAGEMENT, KEY PERSON IN CONTROL FUNCTIONS AND SIGNIFICANT OWNERS OF INSURERS AND INSURANCE BROKERS.

A person shall not be eligible to be appointed, elected or nominated as a Board Member, Senior Management, and Key Persons performing control functions and a Significant Owner of an insurer or insurance broker, if such person: -

- (a) does not possess academic or professional qualifications or have effective experience in insurance, finance, business or of any other relevant discipline;
- (b) has served as a member or an employee of the Board at any time during the period of one year prior to being appointed, elected or nominated as a director of the insurer;
- (c) has been convicted by any competent court in Sri Lanka or of any other country, for a crime committed in connection with financial management or of any offence involving moral turpitude;
- (d) has been declared an undischarged insolvent or a bankrupt under any law of Sri Lanka or of any other country;
- (e) has failed to satisfy any judgment or order given by any competent court in Sri Lanka or of any other country, pertaining to the repayment of a debt;
- (f) has been declared by a competent court in Sri Lanka or of any other country, to be of unsound mind;
- (g) has been removed or suspended by an order of a regulatory or supervisory authority from serving as a director, chief executive officer or any other position of authority in any insurance company, broker, bank, financial institution or corporate body, within or outside Sri Lanka; or
- (h) has been a director, chief executive officer, principal officer, specified officer or held any other position of authority in any insurance company, broker, bank, financial institution or corporate body –
 - (1) whose licence or other authority granted for operating as an insurance company or broker or bank or financial institution, has been suspended or cancelled; or
 - (2) which has been wound up or is being wound up, or which is being compulsorily liquidated within or outside Sri Lanka for which there is any contribution of such person by his act or omission.

- (i) has been convicted of a fraud, bribery, money laundering related offence or terrorist, terrorism, proliferation financing related offence, which generally come within the parameters of the anti-money laundering and countering the financing of terrorism framework;
- (j) appears in the list of designated persons or entities issued under any regulation made in terms of the United Nations Act, No. 45 of 1968, with respect to any designated list on targeted financial sanctions related to terrorism and terrorist financing and proliferation of weapons of mass destruction and its financing;
- (k) has failed to settle all undisputed obligations for taxes due for payment to the taxation authorities in the Republic or another jurisdiction;
- (l) is or becomes an appointed or elected member of Parliament of Sri Lanka;
- (m) the person has been determined to hold a conflict of interest in performing their appointment; and
- (n) in the case of a significant owner whose source of financing/ funding raises questions about past or current activities or future access to capital.

13. The words "thirty days" in sub-section (2) of section 33B of the principal enactment is hereby substituted with "within reasonable time".

14. The sub-section (3) of section 33B of the principal enactment is hereby repealed and replaced with the following-

33B (3) Any person who is aggrieved by a decision given by the Commission under sub-section (2), may within 14 days of being notified of such decision, appeal therefrom to the Court of Appeal. The Court of Appeal may, on appeal made under this section, confirm, revise, modify or set aside the decision against which the appeal is made and may make such order as the interests of justice may require.

15. Sub-section (1)(b) of the section 80 of the principal enactment is hereby amended by insertion of the following immediately after the word "Commission" -

"and not subject to any disqualifications specified in the Second Schedule of this Act"

Include confidentiality provisions in respect of information sharing in line with ICP 3 and amendments to the First Schedule of the RII Act

(Amendments to the First Schedule of the RII Act are incorporated under the next heading)

16. The following sections are hereby inserted immediately after the section 106 of the principal enactment and shall have effect as section 106A of enactment -

Disclosing information, and maintenance of confidentiality and secrecy

- (1) No person who serves or has served as a Member or staff of the Commission shall, except in the exercise, performance and discharge of such person's powers, duties and functions under this Act or any other written law, permit access to, disclose or publicize any non-public information including the information submitted to the Commission by any person local or foreign which such Member or staff has obtained in the performance of his duties or use such information, or allow such information to be used, for personal gain.
- (2) Notwithstanding the provisions of subsection (1), any person referred to in that subsection may disclose non-public information outside the Commission, where such disclosure—
 - (a) is permitted by a decision of the Commission to disclose the particular information or the category of information;
 - (b) is required by any Court of law, public authority having powers to require such information, the external auditors, the Honorable Attorney General or any Attorney-at-Law representing the Commission in any legal proceedings or for the purpose of providing legal opinion or to comply with any other provisions of this Act or other written law for the time being in force;
 - (c) is required to obtain or share information with any local or foreign person including supervisors and authorities in terms of bi-lateral or multilateral memorandum of understanding in the exercise of their duties in relation to the Commission, subject to confidentiality, purpose and use requirements.
- (3) No suit or prosecution shall be instituted against any member of the Commission or against any staff member of the Commission for any acts done or purported to be done or omitted to be done in good faith under this Act or on the direction of the Commission regarding disclosing of non-public information.
- (4) Any person who receives confidential information the Commission obtained from local or foreign supervisors and authorities, is required to use information:
 - (a) only for the requested purpose and limitation;
 - (b) in accordance with instructions issued by the Commission;
 - (c) Maintaining the confidentiality, privacy of any information and related documents received without divulging the information to a third party
 - (d) If it relates to individual data, with the written consent of the natural or legal person to whom such information relates
- (5) Subsection (4) shall not apply to any disclosure of information which—
 - (a) is made as required by a court of law
 - (b) or as required to comply with any other provisions of this Act;
 - (c) or any other written law for the time being in force

(6) (i) Any person who receive information at the initiation, during or after the issuance of an insurance policy, shall not divulge or share any received information without obtaining the written consent of the policyholder, except,

- a. with the statutory authorities in accordance with the existing statutory laws; or
- b. for the purpose of underwriting the policy or settling a claim under the policy; or
- c. with any other institution as authorized by the Authority.

(ii) No insurer shall insert any clause or condition in the proposal form which, by default, allows the insurer to part or share policyholder's information to any third party unless with the consent of policyholder.

Incorporate the amendments drafted through the Insurance Law Review Committee to Part 1 of the Act – ICP 1 and 2

17. The long title of the principal enactment is hereby repealed and substituted with the following new long title-

Long title

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE INSURANCE REGULATORY COMMISSION; TO ENSURE THAT INSURANCE BUSINESSES IN SRI LANKA ARE CARRIED OUT WITH INTEGRITY AND IN A PROFESSIONAL AND PRUDENT MANNER WITH A VIEW TO SAFEGUARDING THE INTERESTS OF THE PAST, PRESENT AND FUTURE POLICY-HOLDERS; FOR THE PROMOTION OF EFFECTIVE COMPETITION IN THE INSURANCE BUSINESS; FOR THE DEVELOPMENT AND REGULATION OF THE INSURANCE INDUSTRY; FOR THE REPEAL OF THE REGULATION OF INSURANCE INDUSTRY ACT NO. 43 OF 2000; AND FOR ALL MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

18. The following preamble is inserted immediately after the new long title of this enactment -

Preamble

WHEREAS it is the policy of the Government of Sri Lanka to provide for the better protection of past, existing and future insurance policy-holders through the regulation of the insurance industry and to prevent unfair trade practices by the insurance industry and the persons connected thereto in order to ensure that insurance businesses in Sri Lanka are carried out with integrity and in a profound and prudent manner;

WHEREAS the Government of Sri Lanka is also desirous of promoting competitive pricing wherever possible and ensure healthy competition among the insurance companies, brokers and all persons connected therewith;

AND WHEREAS the Government of Sri Lanka is desirous of implementing insurance core principles and common framework for insurance business in line with the international insurance industry:

NOW THEREFORE be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows: -

19. Part I of the principal enactment is hereby repealed and substituted with the following new Part I of that enactment -

"Part 1

ESTABLISHMENT OF THE INSURANCE REGULATORY COMMISSION OF SRI LANKA

Establishment of Insurance Regulatory Commission of Sri Lanka

2. (1) A Commission called the Insurance Regulatory Commission (hereinafter referred to as the "Commission") is hereby established which shall consist of the persons who are for the time being members of the Commission under section 4 and shall be responsible for the development, regulation, registration, licensing, prudential and market conduct supervision, and ongoing supervision of persons who are authorized to engage in the insurance business, and resolution of the insurance industry in Sri Lanka.
- (2) The Commission shall, by the name assigned to it by subsection (1), be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

Objects of the Commission

3. The Commission shall be exclusively responsible for the development, regulation, registration, licensing, prudential and market conduct supervision, and ongoing supervision of persons authorized to engage in the insurance business, and resolution of the insurance industry in Sri Lanka except where there are specific laws applicable to regulate and supervise such matters.

A. The object of the Commission shall be –

- (a) to ensure that insurance business in Sri Lanka is carried on with integrity, professional and prudent manner,
- (b) to promote and maintain a fair, safe and stable insurance market,
- (c) contribute to the financial stability of the insurance industry with a view to safeguarding the interests of the past, present and future insurance policyholders, the persons authorized to engage in the insurance business;
- (d) to protect past, present and future insurance policyholders against unfair trade practices and guarantee that the interests of such policyholders shall be given due consideration;

- (e) to ensure that adequate access to insurance products and services are available at competitive prices; and
- (f) to provide redress against unfair trade practices, restrictive trade practices or any other forms of exploitation of insurance policy holders by anyone.

Powers of the Commission

B. The powers of the Commission shall be to –

- (a) register companies or any other persons –
 - (i) as insurers carrying on insurance business in Sri Lanka;
 - (ii) as reinsurers carrying on insurance business in Sri Lanka;
 - (iii) as insurance brokers;
 - (iv) as loss adjusters;
 - (v) any other activities in respect of or concerning the insurance business in Sri Lanka.
- (b) advise the Government on the development and regulation of the insurance industry;
- (c) implement the policies and programmes of the Government with respect to the insurance industry;
- (d) enter into any bi-lateral or multi-lateral memorandum of understandings or agreements pertaining to the sharing and obtaining of information, with any local or foreign person, supervisors or law enforcement authorities, subject to the confidentiality requirements provided by this Act, purpose and use requirements;
- (e) recruit such employees as may be necessary for the purpose of exercising, performing and discharging the powers, duties and functions of the Commission and to exercise powers of disciplinary control and dismissal of such employees;
- (f) acquire and hold any property, movable or immovable and sell, lease, mortgage or otherwise dispose of the same;
- (g) enter into all such contracts as may be necessary for the exercise, performance and discharge of its powers, duties and functions; and
- (h) (i) request any person, including a regulatee, to furnish to the Commission periodically, or as and when required by the Commission, any information, books, accounts or other documents which are required by the Commission and are in the custody or under the control of that person, and to summon any such person who submits such information to the Commission for further evidence or clarification.
- (ii) require any holding company, subsidiary company, associate company of an insurer/s to submit information/document for the effective supervision of such insurer/s, which includes conducting on-site and/or off-site inspection in such companies;

- (i) control or eliminate –
 - (i) restrictive trade agreements among insurance companies, brokers, agents and any person engaged in the insurance business;
 - (ii) arrangements amongst insurance companies, brokers, agents or any other persons engaged in insurance business with regard to prices;
 - (iii) abuse of a dominant position with regard to insurance business or the development of the insurance industry within the market or in a substantial part of the insurance business;
 - (iv) any restraint of competition adversely affecting domestic insurance business or economic development of Sri Lanka;
- (j) investigate or inquire into anti-competitive practices and abuse of a dominant position and take appropriate steps to prevent such matters;
- (k) maintain and promote effective competition between companies, brokers, agents and persons providing insurance business;
- (l) promote and protect the rights and interests of former present and prospective insurance policyholders and other users of insurance services in respect of the price, availability and quality of insurance products and services;
- (m) to keep the public informed of the standards of the companies engaged in insurance business, brokers, agents and all other persons engaged in the insurance business and price of the insurance products;
- (n) carry out investigations and inquiries in relation to any matter specified in this Act and to take appropriate steps to implement core principals and a common framework for the insurance business;
- (o) promote competitive prices in markets where competition is less than effective;
- (p) undertake studies, publish reports and provide information to the public relating to market conditions and the insurance industry;
- (q) undertake public and private sector studies applicable to insurance business;
- (r) promote and educate the public with regard to insurance business;
- (s) promote the exchange of information relating to market conditions with other institutions;
- (t) promote, assist and encourage the establishment of insurance companies, brokers, agents and any other organisations;
- (u) prescribe and charge such fees in respect of any services rendered by the Commission;
- (v) appoint committees as may be necessary to facilitate the discharge of the functions of the Commission;

(w) to issue general or special directions to companies or persons carrying on insurance or reinsurance business, insurance brokers and any other person engaged in insurance business, including reinsurance business, in Sri Lanka;

(x) outsource selected activities of the Commission, except for the core supervisory functions of the Commission, for complementing the Commission with valuable expertise subject to a procedure laid down by the Commission in that regard;

(y) issue draft subordinate legislation for public consultation when the Commission deems it appropriate;

And

(z) do all such other acts as may be necessary for the attainment of the objects of the Commission and for the effective discharge of the functions of the Commission.

Constitution of the Commission

4. (1) The Commission shall consist of the following members :-

- a. four members appointed by the Minister from among persons who possess recognised qualifications, have had a wide experience and have distinguished themselves in the field of insurance, commerce, economics, law, administration, information technology or any other related field (in this Act referred to as "appointed members") and such member should be from different fields;
- b. Deputy Secretary to the Treasury or his nominee;
- c. a Deputy Governor of the Central Bank of Sri Lanka nominated by the Monetary Board;
- d. President of the Chartered Institute of Accountants;
- e. the Registrar-General of Companies

(2) The Minister shall nominate one of the members of the Commission as the Chairman of the Commission.

(3) The provisions of the First Schedule to this Act shall have effect in relation to the term of office of the members of the Commission, the meetings, remuneration payable to members of the Commission, and the Seal of the Commission.

Fund of the Commission

5. (1) The Commission shall have its own Fund.

(2) There shall be paid into the Fund of the Commission –

- a. all such sums of money as may be voted from time to time by Parliament for the use of the Commission;
- b. all such sums of money as may be received by the Commission by way of fees or otherwise in the discharge of its functions and duties;
- c. All such fees charged for the management of unclaimed benefit fund under section 103A;
- d. all such sums of money as may be received by the Commission by way of donations, gifts and grants from any source whatsoever, whether in or outside Sri Lanka.
- e. all such sums of money imposed by the Commission as administrative penalties and levies from the insurers, brokers or any other persons as the case may be;
- f. all such sums of money that may be levied by the Minister in respect of policies of insurance issued in Sri Lanka.
- g. all such sums of money as are credited or transferred to the fund under the provisions of this Act.

(3) There shall be paid out of the Fund -

- h. remuneration and other benefits payable to the members, employees of the Commission and the others appointed under the Act;
- i. such sums as the Commission may consider necessary for the promotion, assistance and encouragement of the insurance industry and the regulation and development of the industry;
- j. such sums as the Commission may consider necessary to educate the public of the insurance business, the dissemination of information relating thereto, and for any purpose connected with or incidental to the furtherance of such education; and
- k. such sums of money as may be required to defray the expenses incurred by the commission in the exercise, discharge and performance of its powers, functions and duties under this act.

Levy of cess on net premium income

6. (1) There shall be charged, levied and paid a cess at such rates as may be determined by the Minister with the concurrence of the Commission from time to time by Order published in the Gazette, on the annual net premium income of every insurer. However, such rate shall not exceed one half *per centum* of the annual net premium income.

(2) Every order made by the Minister under subsection (1) shall come into force on the date of its publication in the Gazette or on such later date as may be specified therein, and shall be brought before Parliament for approval within three months of the date of its publication. Any such Order which is not so approved shall be deemed to be revoked from

the date of disapproval, but without prejudice to the validity of anything previously done thereunder.

- (3) The cess imposed under this Act shall be in addition to any other tax or cess levied under any other written law.
- (4) For the purpose of subsection (1) "annual net premium income" means the gross insurance premium income, less reinsurance premium.

Financial year and audit of accounts of the Commission

- 7. (1) The financial year of the Commission shall be the calendar year.
- (2) The Commission shall cause proper books of accounts to be kept of the income and expenditure, assets and liabilities and all other transactions of the Commission.
- (3) The provisions of Article 154 of the Constitution relating to the audit of the accounts of Public Corporations shall apply to the audit of accounts of the Commission.

Director General

- 8. (1) The Commission shall, appoint a Director-General to the Commission, who shall be its Chief Executive Officer and shall have sufficient qualifications and experience in the field of insurance, commerce, economics, law, administration, information technology or any other related field. The conditions of employment, including remuneration and benefits of the Director-General, shall be determined by the Commission.
- (2) The Director-General shall, at all times act under directions of the Commission, and is in charge of the administration and control of the employees of the Commission.
- (3) Director-General may, with the approval of the Commission, whenever he considers it necessary to do so, delegate to any employee of the Commission any power, function or duty conferred or imposed on or assigned to him by this Act, and such officer or servant employee shall exercise, discharge and perform such power, function or duty subject to the general or special directions of the Director-General.
- (4) Whenever the Director-General is by reason of illness or absence from Sri Lanka or for any other cause, unable to perform the duties of his office, the Commission may, appoint some other person to act in his place, during such absence.
- (5) The Commission may terminate the appointment of the Director General in the event of a misconduct, conviction of an offence by a competent court or for physical or mental incapacity, upon providing a hearing to the Director general prior to such termination.

Staff to the Commission

- 9. (1) The Commission may appoint such number of Directors, Deputy Directors, Assistant Directors, Managers other staff and advisers as are necessary for the performance of

the work of the Commission, who shall be remunerated at such rates as may be determined by the Commission.

- (2) Notwithstanding anything to the contrary in any other written law, the Commission may create cadre positions and employ staff as it considers necessary for the efficient discharge of its functions and may fix their remuneration and benefits for the purposes of carrying out its functions and duties under the provisions of this Act.
- (3) The Commission shall establish a code of conduct which shall be applicable to the officers and servants of the Commission.

Appointment of public officers to the staff of the Commission

- 10. (1) At the request of the Commission, any officer in the public service may with the consent of that officer and the Secretary to the Ministry of the Minister in charge of the subject of Public Administration, be temporarily appointed to the staff of the Commission for such period as may be determined by the Commission, with like consent, or with like consent be permanently appointed to such staff.
- (2) Where any officer in the public service is temporarily appointed to the staff of the Commission the provisions of subsection (2) of section 14 of the National Transport Commission Act No. 37 of 1991, shall, *mutatis mutandis*, apply and in relation to him.
- (3) Where any officer in the public service is permanently appointed to the staff of the Commission, the provisions of subsection (3) of section 14 of the National Transport Commission Act, No. 37 of 1991, shall *mutatis mutandis*, apply and in relation to him."

20. The First Schedule of the principal enactment is hereby repealed and substituted with the following new First Schedule of that enactment -

"FIRST SCHEDULE

Disqualification from appointment

- 1. A person shall be disqualified from being appointed or continuing as a member of the Commission—
 - (a) if he is, or becomes a Member of Parliament, Member of a Provincial Council or a Member of a Local Authority;
 - (b) if he is not, or ceases to be a citizen of Sri Lanka;
 - (c) if he is under any law in force in Sri Lanka or in any other country, found or declared to be of unsound mind;
 - (d) if he is serving or has served, a sentence of imprisonment imposed by any court in Sri Lanka or any other country; or

- (e) if he had been removed from the Commission for misconduct.
- (f) if he had been removed by any regulatory authority from serving as a director, Chief Executive Officer or any such position of authority in Sri Lanka or abroad; or
- (g) if he has not been approved to be appointed as a director of an insurance company by the Commission.
- (h) if he was a chief executive officer or held any other position of authority in any financial institution –
 - (i) whose license has been suspended or cancelled; or
 - (ii) which has been wound up or is being wound up, or which is being compulsorily liquidated whether in Sri Lanka or abroad;
- (i) if he is an employee of the Commission.

Term of office of members

- 2. Every member of the Commission including the chairman shall, unless he vacates office earlier by death, resignation or removal, hold office for a term of three years from the date of his appointment and unless he has been removed from office, be eligible for reappointment:

Provided that a member appointed in place of a member or the chairman who had vacated office, by death, resignation or removal, shall hold office for the unexpired term of office of the member whom he succeeds.

Termination of appointment of members

- 3. The Minister may, by Order published in the Gazette, remove from office any member or chairman of the Commission for misconduct or for physical or mental incapacity. A member or the chairman in respect of whom an Order is made under this paragraph shall be deemed to have vacated office on the date of publication of the Order in the Gazette.

Resignation of members

- 4. A member of the Commission or the chairman may at any time resign from his office by letter to that effect addressed to the Minister and such resignation shall take effect upon it being accepted by the Minister in writing.

Vacation of office by death, resignation or removal

- 5. In the event of the vacation of office, by death, resignation or removal, by any member of the Commission or the Chairman, the Minister may, having regard to the provisions of section appoint another person or the Chairman to succeed such member.

Leave or absence of members

6. Where a member of the Commission is by reason of illness, infirmity or absence from Sri Lanka for a period not less than three months, is temporarily unable to perform his duties, it shall be the duty of such member to inform the Minister in writing of such inability. Thereupon, the Minister may having regard to the provisions of section appoint some other person to act in his place during such period.

Termination of appointment of Chairman

7. (1) If the Chairman is by reason of illness, infirmity or absence from Sri Lanka temporarily unable to perform the duties of his office, the Minister may appoint another member of the Commission to act in his place.
- (2) The Minister may by Order published in the Gazette remove the Chairman from office for misconduct or for physical or mental incapacity. Such person in respect of whom an Order is made under this paragraph shall be deemed to have vacated office on the date of publication of the Order in the Gazette.
- (3) The Chairman may at any time resign from the office of Chairman by letter addressed to the Minister. Such resignation shall take effect upon it being accepted by the Minister in writing.

Meetings of the Commission

8. (1) The Chairman of the Commission shall, if present preside at every meeting of the Commission. In the absence of the Chairman from any such meeting, the members present at such meeting shall elect one of the members present, to preside at such meeting.
- (2) The quorum for any meeting of the Commission shall be five members.
- (3) The Chairman, or in his absence the member presiding at any meeting of the Commission shall have, in addition to his own vote, a casting vote.
- (4) Subject to the provisions of this paragraph and any regulation made under section the Commission may regulate the procedure in regard to its meetings and the transaction of business at such meetings.

Proceedings act or decision not to deemed invalid by reason of any defect in the appointment

9. No act, decision or proceeding of the Commission shall be deemed invalid by reason only of the existence of a vacancy among its members or any defect in the appointment of any member thereof.

Seal of the Commission

10. (1) The seal of the Commission shall be in the custody of the Director-General

(2) The application of the seal of the Commission shall be authenticated by the signature of the chairman and by another member of the Commission.

Disclosure of interest by members

11. A member of the Commission who is directly or indirectly interested in any matter which forms the subject matter of any proceeding of the Commission or of any decision proposed to be made by the Commission, shall disclose the nature of his interest at a meeting of the Commission and such member shall not take part in any proceeding or decision in respect of such matter.

Confidentiality of proceedings and responsibility of members

12. (1) The proceedings of the meetings of the Commission and the documents submitted to the Commission shall be confidential to the extent permitted under the Right to Information Act, No. 12 of 2016 and subject to any order of a competent court to produce same. The Commission may give publicity to any of its decisions on any matter, if it decides it necessary having considered the legitimate interest and purpose of the request made.

(2) The members of the Commission shall be subject to

- (i) a code of conduct which shall include confidentiality agreement pertaining to the proceedings of the Commission; and
- (ii) an undertaking of non-availability of conflict of interest and disclosure of any close relationships with the industry

which shall be signed and submitted prior to the appointment to the Commission.

Amendments to the Interpretation of the Act

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

1. By the insertion, immediately after the definition of the expression "actuary" of the following new definition-

"Beneficiary" means policyholder, life assured, nominee, assignee or any person having a legal or financial interest in the policy as per the terms and conditions of the insurance policy
2. By the insertion, immediately after the definition of the expression "insurer" of the following new definition-

"Key Persons in Control Functions" means persons responsible, having control over or heading the control functions of an insurer or broker.

3. By the insertion, immediately after the definition of the expression "Securities and Exchange Commission of Sri Lanka" of the following new definitions-

"Senior management" means the individuals or body responsible for managing an insurer or broker on a day-to-day basis in accordance with strategies, policies and procedures set out by the Board of Directors.

"Significant owner" means a person (legal or natural) that directly or indirectly, alone or with another person (legal or natural), exercises control over an insurer or broker.

4. By the insertion, immediately after the definition of the expression "technical reserve" of the following new definition-

"Unclaimed benefits" means any sum, inclusive of accrued income held by an insurer, which is payable on under the terms and conditions of an insurance policy to beneficiaries but remains unpaid beyond a period of eighteen (18) months from the due date of payment. This may encompass, inter alia, amounts arising in respect of death claims, health benefit claims, maturity claims, survival benefits, surrender values, premium due for refund (where policyholder is not traceable by the insurer).

Additional Amendments

22. The following new section is hereby inserted immediately after section 23 of the principal enactment and shall have effect as section 23A of that enactment -

Waiving the requirement of deposit to be paid to the Treasury

- 23A. The provisions under Sections 21, 22 and 23 shall not be applicable for the insurers applying to be registered as an insurer.