



THE STATUTES OF THE REPUBLIC OF SINGAPORE

INSURANCE ACT

(CHAPTER 142)

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Insurance Act

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An Act for the regulation of insurance business in Singapore, insurers, insurance intermediaries and related institutions, and for other purposes relating thereto or connected therewith.

[Act 11 of 2013 wef 18/04/2013]

[1st January 1967]

PART I

PRELIMINARY

Short title

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

Interpretation

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

“accounting period”, relation to any insurer, means the period beginning from the commencement of its business in

Singapore or 1st January of any year, as the case may be, and ending on 31st December of that year for which accounts relating to the insurance business carried on by the insurer in Singapore are kept and for which an insurance fund has been established under this Act, unless otherwise allowed by the Authority;

“actuary” means a Fellow of any prescribed professional body or institute;

[Act 23/2003 wef 01/01/2004]

“advocate and solicitor” means an advocate and solicitor of the Supreme Court or a foreign lawyer as defined in section 2(1) of the Legal Profession Act (Cap. 161);

[Act 11 of 2013 wef 18/04/2013]

“authorised reinsurer” means a reinsurer which is for the time being authorised under section 34;

[Act 11 of 2013 wef 18/04/2013]

“Authority” means the Monetary Authority of Singapore established under the Monetary Authority of Singapore Act (Cap. 186);

“captive insurer” means an insurer whose licence is restricted to the carrying on of insurance business which consists principally of risks of its related corporations;

[Act 11 of 2013 wef 18/04/2013]

“chief executive” —

- (a) in relation to a licensed insurer which is established or incorporated in Singapore, means any person, by whatever name described, who is in the direct employment of, or acting for or by arrangement with, the insurer, and is principally responsible for the management and conduct of the business of the insurer, including the business that its subsidiaries and overseas branches (if any) engage in; or
- (b) in relation to a licensed insurer which is incorporated outside Singapore, means any person, by whatever name described, who is in the direct employment of,

or acting for or by arrangement with, the insurer, and is principally responsible for the management and conduct of the business of the insurer in Singapore;

[Act 11 of 2013 wef 18/04/2013]

“company” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

[23/2003 wef 01/01/2004]

“co-operative society” means a co-operative society registered under the Co-operative Societies Act (Cap. 62);

[Act 11 of 2013 wef 18/04/2013]

“corporation” has the same meaning as in section 4(1) of the Companies Act;

[23/2003 wef 01/01/2004]

“direct insurance broker” means a person who is for the time being registered under section 35X in respect of insurance policies relating to general business and long-term accident and health policies, other than insurance policies relating to reinsurance business;

[23/2003 wef 01/01/2004]

“direct insurer” means any insurer other than a reinsurer, an authorised reinsurer or a captive insurer;

[23/2003 wef 01/01/2004]

“director” —

(a) in relation to a corporation, has the same meaning as in section 4(1) of the Companies Act (Cap. 50); or

(b) in relation to any other entity, means a person holding a position in that entity analogous to that of director of a corporation, and includes a person who acts in such capacity in relation to that entity;

[Act 11 of 2013 wef 18/04/2013]

“directions” includes directives and notices;

[23/2003 wef 01/01/2004]

“executive officer”, in relation to a licensed insurer, means any person, by whatever name described, who —

- (a) is in the direct employment of, or acting for or by arrangement with, the insurer; and
- (b) is concerned with or takes part in the management of the insurer on a day-to-day basis;

[Act 11 of 2013 wef 18/04/2013]

“exempt financial adviser” has the same meaning as in the Financial Advisers Act (Cap. 110);

“financial advisory service” has the same meaning as in section 2(1) of the Financial Advisers Act;

[23/2003 wef 01/01/2004]

“financial year” has the same meaning as in section 4(1) of the Companies Act;

“foreign country” means a country or territory other than Singapore;

[Act 11 of 2013 wef 18/04/2013]

“foreign insurer” means an insurer which —

- (a) is authorised under the laws of a foreign country to carry on insurance business in that foreign country; but
- (b) is not licensed as an insurer under section 8 or authorised as a reinsurer under section 34;

[Act 11 of 2013 wef 18/04/2013]

“foreign insurer scheme” means any foreign insurer scheme established under section 35B;

[Act 11 of 2013 wef 18/04/2013]

“general reinsurance broker” means a person who is for the time being registered under section 35X in respect of reinsurance of liabilities under insurance policies relating to general business;

“guaranteed policy moneys” means the benefits that an insured policy owner is entitled to receive under his insured policy under section 54(2) or (3), as the case may be, of the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011;

[16/2011 wef 01/05/2011]

“insurance agent” means —

- (a) a person who, as an agent for one or more insurers (which may include a foreign insurer carrying on insurance business in Singapore under a foreign insurer scheme), is or has been carrying on the business of —
 - (i) receiving proposals for, or issuing, policies in Singapore;
 - (ii) collecting or receiving premiums on policies in Singapore; or
 - (iii) arranging contracts of insurance in Singapore; or
- (b) a person who acts for, or by arrangement with, a person referred to in paragraph (a) in the performance of all or any of the activities carried out by the person referred to in paragraph (a),

but does not include such persons or class of persons as the Authority may prescribe;

[Act 11 of 2013 wef 18/04/2013]

“insurance broker” means —

- (a) a person who is or has been carrying on the business of —
 - (i) receiving proposals for, or issuing, policies in Singapore;
 - (ii) collecting or receiving premiums on policies in Singapore; or
 - (iii) arranging contracts of insurance in Singapore, as an agent for insureds or intending insureds in respect of —
 - (A) policies relating to general business and long-term accident and health policies, other than policies relating to reinsurance business; or

(B) reinsurance of liabilities under policies relating to life business or general business; or

- (b) a person who acts for, or by arrangement with, a person referred to in paragraph (a) in the performance of all or any of the activities carried out by the person referred to in paragraph (a),

but does not include such persons or class of persons as the Authority may prescribe;

[Act 11 of 2013 wef 18/04/2013]

“insurance business in Singapore” means the business of assuming risk or undertaking liability in Singapore under policies, and of —

- (a) receiving proposals for policies in Singapore;
- (b) issuing policies in Singapore; or
- (c) collecting or receiving premiums on policies in Singapore,

but does not include such businesses or activities, such class of businesses or activities, or such businesses or activities carried on by such persons or class of persons, as the Authority may prescribe;

[Act 11 of 2013 wef 18/04/2013]

“insurance intermediary” means a person who, as an agent for one or more insurers or as an agent for insureds or intending insureds, arranges contracts of insurance in Singapore, and includes an insurance agent or an insurance broker;

[Act 11 of 2013 wef 18/04/2013]

“insured” includes reinsured and “insurer” includes reinsurer;

“licensed financial adviser” means a holder of a financial adviser’s licence under the Financial Advisers Act;

“licensed insurer” means an insurer which is for the time being licensed under section 8;

[Act 11 of 2013 wef 18/04/2013]

“life reinsurance broker” means a person who is for the time being registered under section 35X in respect of reinsurance of liabilities under insurance policies relating to life business;

“limited liability partnership” has the same meaning as in section 2(1) of the Limited Liability Partnerships Act 2005;

[5/2005 wef 11/04/2005]

“marine mutual insurance business” means the business of providing the insurance of liabilities under insurance policies on the basis of mutual insurance (within the meaning of section 85 of the Marine Insurance Act (Cap. 387)) on such risk or risks as may be prescribed;

[Act 11 of 2013 wef 18/04/2013]

“marine mutual insurer” means an insurer that is a direct insurer licensed to carry on general business and that is permitted under the licence to carry on marine mutual insurance business only;

[Act 11 of 2013 wef 18/04/2013]

“partner” and “manager”, in relation to a limited liability partnership, have the respective meanings assigned to them in section 2(1) of the Limited Liability Partnerships Act 2005;

[5/2005 wef 11/04/2005]

“PPF Agency” means the deposit insurance and policy owners’ protection fund agency constituted under section 56 of the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011;

[16/2011 wef 01/05/2011]

“PPF Funds” means the Policy Owners’ Protection Life Fund and the Policy Owners’ Protection General Fund established under section 34 of the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011;

[16/2011 wef 01/05/2011]

[Deleted by Act 11 of 2013 wef 18/04/2013]

“registered insurance broker” means an insurance broker who is for the time being registered under section 35X;

“reinsurer” means an insurer whose licence is restricted to the carrying on of reinsurance business;

[Act 11 of 2013 wef 18/04/2013]

“related corporation” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

[23/2003 wef 01/01/2004]

“representative”, in relation to a licensed financial adviser or exempt financial adviser, has the same meaning as in the Financial Advisers Act (Cap. 110);

[Deleted by Act 11 of 2013 wef 18/04/2013]

“statutory balance-sheet” and “statutory valuation” mean respectively a balance-sheet lodged with the Authority in order to comply with section 36, and a valuation of which the results are shown in a valuation balance-sheet lodged with it on an actuarial investigation made in order to comply with section 37(1);

[Act 11 of 2013 wef 18/04/2013]

“subsidiary” has the same meaning as in section 5 of the Companies Act;

[Act 11 of 2013 wef 18/04/2013]

“substantial shareholder” has the same meaning as in section 81 of the Companies Act;

[Act 11 of 2013 wef 18/04/2013]

“voting share” has the same meaning as in section 4(1) of the Companies Act.

[Act 11 of 2013 wef 18/04/2013]

Classification of insurance business and construction of references to matters connected with insurance

2.—(1) For the purposes of this Act, insurance business shall be divided into 2 classes —

- (a) life business, which means all insurance business concerned with life policies, long-term accident and health policies, or both; and

[23/2003 wef 01/01/2004]

- (b) general business, that is to say, all insurance business which is not life business, and shall include the effecting and carrying out by any person, not being a person licensed, approved, designated or otherwise regulated under the Monetary Authority of Singapore Act (Cap. 186), Banking Act (Cap. 19), Finance Companies Act (Cap. 108) or Securities and Futures Act (Cap. 289); of contracts for fidelity bonds, performance bonds, administration bonds, bail bonds or customs bonds or similar contracts of guarantee, being contracts effected by way of business (and not merely incidental to some other business carried on by the person effecting them) in return for the payment of one or more premiums.

[32/93; 41/2001]

[Act 11 of 2013 wef 18/04/2013]

(2) For the purposes of this Act, the reinsurance of liabilities under insurance policies by a licensed insurer or an authorised reinsurer shall be treated as insurance business of the class and type to which the nature of the risk assumed or liabilities undertaken by that licensed insurer or authorised reinsurer relates.

[Act 11 of 2013 wef 18/04/2013]

(3) Notwithstanding anything in subsections (1) and (2), if the Authority is satisfied that any part of an insurer's business which belongs to a particular class or type of insurance business ought in the insurer's case to be treated as belonging to another class or type, the Authority may direct that it shall be so treated for the purposes of this Act.

[11/86]

(4) For the purposes of this Act, references to carrying on insurance business include the carrying it on through an agent.

[Act 11 of 2013 wef 18/04/2013]

(5) For the purposes of this Act and subject to subsection (5A), “Singapore insurer” means a person who is or has been carrying on insurance business in Singapore.

[11/86; 30/99]

[Act 11 of 2013 wef 18/04/2013]

(5A) A person shall not be treated as carrying on insurance business, or any class of insurance business, in Singapore if, apart from the collection or receipt of premiums in Singapore, he —

- (a) carries out all activities in relation to his reinsurance business outside Singapore; and
- (b) does not have any commercial or physical presence in Singapore for the purpose of carrying on such reinsurance business.

[23/2003 wef 01/01/2004]

[Act 11 of 2013 wef 18/04/2013]

(6) The operation, otherwise than for profit, of a scheme or arrangement relating to service in particular offices or employments, and having for its object or one of its objects to make provision in respect of persons serving therein against future retirement or partial retirement, or against future termination of service through death or disability, or against similar matters, shall not be treated for the purposes of this Act as carrying on the business of insurance.

(7) For the purposes of this Act, no society registered under the Societies Act (Cap. 311) or organisation registered under the Mutual Benefit Organisations Act (Cap. 191) shall be deemed to be an insurer, and no agent for such a society or organisation shall as such be deemed to be an insurance agent; nor shall references in this Act to a policy or contract of insurance apply to any policy or contract whereby an insurance is effected with such a society or organisation.

[50/75; 41/2001]

(8) For the purposes of this Act —

- (a) any reference to the last statutory balance-sheet or to the last statutory valuation shall be construed as referring to that last prepared or made and not superseded by the arrival

of the date as at which another is to be prepared or made;
and

- (b) any reference to there being shown in a statutory balance-sheet or on a statutory valuation a surplus of assets over liabilities of an insurance fund shall be construed accordingly by reference to the form of balance-sheet or valuation balance-sheet as the Authority may prescribe or specify in directions, and to the rules to be followed under this Act and any such directions in preparing it.

[Act 11 of 2013 wef 18/04/2013]

(9) The definitions set out in the First Schedule shall have effect for the construction of references in this Act to policies of insurance, policy owners and policy moneys.

[23/2003 wef 01/01/2004]

PART II

CONDUCT OF INSURANCE BUSINESS

Division 1 — General restriction on insurers

[11/2013 wef 18/04/2013]

No person to carry on insurance business unless licensed or authorised by Authority

3.—(1) Subject to the provisions of this Act, no person shall carry on any class of insurance business in Singapore as an insurer unless the person is licensed by the Authority under this Act in respect of that class of business.

[11/86]

[Act 11 of 2013 wef 18/04/2013]

(1A) Except for a licensed insurer or a foreign insurer carrying on insurance business in Singapore under a foreign insurer scheme, no person carrying on reinsurance business outside Singapore shall carry on the business of providing the reinsurance of liabilities under insurance policies, as a principal and as an insurer, to persons in Singapore unless —

- (a) he is authorised by the Authority under section 34 to do so;
or

(b) he is providing the reinsurance of liabilities under insurance policies pursuant to an arrangement which was not solicited by him but was initiated by —

- (i) a licensed insurer;
- (ii) a registered insurance broker; or
- (iii) a person exempt from registration as an insurance broker under section 35ZN(1)(a), (b), (c), (d), (e) or (ea) who has notified the Authority, in such manner as may be prescribed under section 64(1), of his commencement of insurance broking business.

[Act 11 of 2013 wef 18/04/2013]

(1B) Any person licensed by the Authority under this Act to carry on insurance business as an insurer in respect of life business may carry on general business relating to short-term accident and health policies while being so licensed, and —

- (a) the person need not be licensed as an insurer in respect of general business in order to carry on general business relating to short-term accident and health policies; and
- (b) the general insurance business relating to short-term accident and health policies carried on by the person shall be treated as part of the person's life business.

[23/2003 wef 01/01/2004]

[Act 11 of 2013 wef 18/04/2013]

(1C) An insurer licensed to carry on both life business and general business may treat its short-term accident and health policies as part of its life business or its general business.

[23/2003 wef 01/01/2004]

[Act 11 of 2013 wef 18/04/2013]

(2) Any person who contravenes subsection (1) or (1A) shall be guilty of an offence and shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part

thereof during which the offence continues after conviction; or

- (b) in any other case, to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

[Act 11 of 2013 wef 18/04/2013]

- (3) *[Deleted by Act 11 of 2013 wef 18/04/2013]*

Holding out as licensed insurer or authorised reinsurer

4.—(1) Where any person holds himself out, or purports to hold himself out, to be a licensed insurer or an authorised reinsurer in respect of life business or general business, or both, when that person is not licensed or authorised under this Act in respect of that business —

- (a) that person shall be guilty of an offence; and
- (b) where that person is a corporation, limited liability partnership or firm, every director, manager or officer of the corporation and every partner or officer of the firm and every partner or manager of the limited liability partnership (as the case may be) shall, unless he proves that the offence was committed without his knowledge or consent, be guilty of an offence.

[5/2005 wef 11/04/2005]

[Act 11 of 2013 wef 18/04/2013]

(2) Any person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction; or
- (b) in any other case, to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not

exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

[Act 11 of 2013 wef 18/04/2013]

Use of word “insurance”

5.—(1) Subject to subsection (1AA) and except with the written consent of the Authority, no person, other than a licensed insurer, an authorised reinsurer or a foreign insurer carrying on insurance business in Singapore under a foreign insurer scheme, shall —

- (a) use the word “insurance” or any of its derivatives in any language, or any other word indicating that that person carries on insurance business in the name, description or title under which it carries on business in Singapore; or
- (b) make any representation to such effect in any bill head, letter paper, notice, advertisement or in any other manner.

[22/73; 11/86]

[Act 11 of 2013 wef 18/04/2013]

(1A) Subject to subsections (1B) and (1C) and except with the written consent of the Authority, no person shall —

- (a) use the word “insurance” or any of its derivatives in any language, or any other word, that indicates that the person carries on business as an insurance intermediary in the name, description or title under which it carries on business in Singapore; or
- (b) make any representation to such effect in any bill head, letter paper, notice, advertisement or in any other manner.

[23/2003 wef 01/01/2004]

[Act 11 of 2013 wef 18/04/2013]

(1AA) Subsection (1) shall not apply to any registered person as defined in section 6A(9).

[Act 11 of 2013 wef 18/04/2013]

(1B) Subsection (1A) shall not apply to —

- (a) a registered insurance broker;
- (b) a person exempt from registration as an insurance broker under section 35ZN(1)(a), (b), (c), (d), (e) or (ea) who has

notified the Authority, in such manner as may be prescribed under section 64(1), of his commencement of insurance broking business;

- (c) a licensed financial adviser or an exempt financial adviser, which provides any financial advisory service in respect of life policies;
- (d) an insurance agent operating under an agreement in writing pursuant to section 35M;
- (e) an insurance agent to whom section 35M does not apply;
- (f) an agent of a foreign insurer carrying on insurance business in Singapore under a foreign insurer scheme; or
- (g) such other person as may be prescribed.

[Act 11 of 2013 wef 18/04/2013]

[23/2003 wef 01/01/2004]

(1C) Any person allowed under subsection (1A) to use any word referred to in that subsection in the name, description or title under which the person carries on business in Singapore shall, when using that word in that name, description or title, indicate that the person carries on business as an insurance intermediary.

[Act 11 of 2013 wef 18/04/2013]

(2) Nothing in this section shall prohibit an association of insurers from using the word “insurance” or any of its derivatives in any language as part of its name or description of its activities.

[22/73]

(3) Any person who contravenes subsection (1), (1A) or (1C) shall be guilty of an offence and shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$12,500 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$1,250 for every day or part thereof during which the offence continues after conviction; or
- (b) in any other case, to a fine not exceeding \$25,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for every day or part thereof during which the offence continues after conviction.

[Act 11 of 2013 wef 18/04/2013]

Restrictions on co-branding

5A.—(1) Except with the prior written consent of the Authority, no licensed insurer, authorised reinsurer or foreign insurer carrying on insurance business in Singapore under a foreign insurer scheme shall use, together with its name, logo or trade mark in the course of the business it carries on in Singapore, the name, logo or trade mark of any person who —

- (a) carries on the business of assuming risk or undertaking liability under policies, whether in Singapore or elsewhere; but
- (b) is not a licensed insurer, an authorised reinsurer or a foreign insurer carrying on insurance business in Singapore under a foreign insurer scheme.

(2) Any insurer which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

[Act 11 of 2013 wef 18/04/2013]

Prohibition relating to solicitation of insurance business

6.—(1) Subject to subsection (5), no person shall solicit any insurance business for any insurer other than —

- (a) a licensed insurer;
- (b) an authorised reinsurer;
- (c) a foreign insurer carrying on insurance business in Singapore under a foreign insurer scheme; or
- (d) any other insurer entitled to carry on insurance business in Singapore.

(2) Subject to subsection (5), a person who solicits any insurance business for a licensed insurer or an insurer referred to in subsection (1)(d) —

- (a) shall only solicit in respect of the insurance business in Singapore of that insurer; and

- (b) shall not solicit in respect of the insurance business of —
- (i) any branch located outside Singapore of that insurer;
 - or
 - (ii) where that insurer is incorporated, formed or established outside Singapore, its head office.

(3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction; or
- (b) in any other case, to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

(4) A person whose business it is to publish or to arrange for the publication of advertisements shall not be guilty of an offence under subsection (3) if he proves that —

- (a) he received the advertisement for publication in the ordinary course of his business;
- (b) the matters contained in the advertisement were not, wholly or in part, devised or selected by him or by any person under his direction or control; and
- (c) he did not know and had no reason for believing that the publication of the advertisement would constitute an offence.

(5) Subsections (1) and (2) shall not apply to such persons or class of persons as the Authority may prescribe, subject to such terms or conditions as the Authority may prescribe.

(6) In this section, unless the context otherwise requires —

“advertisement” means the dissemination or conveyance of information, or invitation or solicitation by any means or in any form, including by means of —

- (a) publication in a newspaper, magazine, journal or other periodical;
- (b) display of posters or notices;
- (c) circulars, handbills, brochures, pamphlets, books or other documents;
- (d) letters addressed to individuals, bodies corporate or bodies unincorporate;
- (e) photographs or cinematograph films; or
- (f) sound broadcasting, television, the Internet or other media,

but does not include an advertisement issued outside Singapore that is made available —

- (i) in a newspaper, magazine, journal or other periodical published and circulating principally outside Singapore;
- (ii) in a sound or television broadcast transmitted principally for reception outside Singapore; or
- (iii) by any other means of broadcasting or communication principally for circulation or reception outside Singapore;

“solicit”, in relation to insurance business —

- (a) means, whether in Singapore or elsewhere, offering to, inviting, or issuing any advertisement containing any offer or invitation to, the public or any section of the public in Singapore to enter into a contract of insurance; and
- (b) the reference to an advertisement in paragraph (a) includes an advertisement containing information

which is, or might reasonably be presumed to be, intended to lead, directly or indirectly, to the entering into of a contract of insurance.

(7) For the purposes of this section, in determining whether an offer, invitation or advertisement is made or issued to the public or any section of the public in Singapore, regard shall be had to such considerations as the Authority may prescribe.

[Act 11 of 2013 wef 18/04/2013]

Registration of representative office

6A.—(1) No person shall establish or operate a representative office unless the representative office is registered with the Authority.

(2) Any person who desires to establish and operate a representative office shall —

- (a) apply in writing to the Authority for registration under this section; and
- (b) furnish such information or documents as the Authority may require.

(3) The Authority shall refuse to register a representative office unless —

- (a) the applicant is a company, or a company incorporated outside Singapore; and
- (b) the applicant satisfies such criteria as may be determined by the Authority.

(4) The Authority may register a representative office subject to such conditions as it considers necessary, and the registered person shall comply with the conditions of registration imposed by the Authority under this section.

(5) The Authority may at any time add to, vary or revoke any condition of registration, or impose a condition of registration.

(6) Every registered person shall furnish such information or documents as the Authority may require from time to time.

(7) The Authority may cancel the registration of a representative office if the registered person contravenes —

- (a) any condition of registration imposed by the Authority; or
- (b) any provision of this Act.

(8) Any person who contravenes subsection (1) or (6), fails to comply with any condition of registration imposed by the Authority under subsection (4) or (5), or operates a representative office which has had its registration cancelled by the Authority under subsection (7), shall be guilty of an offence and shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction; or
- (b) in any other case, to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

(9) In this section, unless the context otherwise requires —

“registered person” means a person whose representative office is registered with the Authority under this section;

“representative office” means an office in Singapore established —

(a) by a person who —

- (i) intends to carry on insurance business in Singapore; and
- (ii) is not an authorised reinsurer, and does not carry on any insurance business or any other business in Singapore; and

(b) to carry out liaison work, market research or feasibility studies for the use of that person.

[Act 11 of 2013 wef 18/04/2013]

Examination of persons suspected of carrying on insurance business

7.—(1) Whenever the Authority has reason to believe that a person has contravened any of the provisions of this Act, it may call for or inspect the books, accounts and records of that person in order to ascertain whether or not that person has contravened or is contravening any of the provisions of this Act.

[22/73; 11/86; 30/99]

(2) Any person who wilfully refuses to submit such books, accounts and records or to allow the inspection thereof shall be guilty of an offence and shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction; or
- (b) in any other case, to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

[Act 11 of 2013 wef 18/04/2013]

Division 2 — Licensed insurers

[Act 11 of 2013 wef 18/04/2013]

Licensing of insurers

8.—(1) A person who desires to carry on insurance business in Singapore as an insurer shall —

- (a) apply in writing to the Authority for a licence under this section; and
- (b) furnish such information as the Authority may require.

(2) Upon receiving an application under subsection (1), the Authority shall consider the application and may grant a licence to the applicant with or without conditions or refuse to grant a licence.

- (3) The Authority shall not grant a licence to any person unless —
- (a) the applicant is a company, a company incorporated outside Singapore which has an established place of business in Singapore, or a co-operative society; and
 - (b) the applicant satisfies such financial requirements as may be prescribed.
- (4) For the purposes of this section, the Authority may prescribe financial requirements of different forms or amounts for different classes of insurance business and for different types of insurers.
- (5) The Authority may license an insurer as a direct insurer, reinsurer or captive insurer.
- (6) The Authority shall cause notice of the grant of any licence or change of name of a licensed insurer to be published in the *Gazette*.
- (7) Any applicant which is aggrieved by the refusal of the Authority to grant it a licence under this section may, within 30 days after being informed of the decision of the Authority, appeal to the Minister in writing in accordance with Part IIIB.
- (8) The Authority may at any time add to, vary or revoke any of the existing conditions of the licence of an insurer or impose any condition thereto.
- (9) A licensed insurer shall, at all times during the currency of its licence, satisfy such financial requirements as may be prescribed under subsection (3)(b).
- (10) Any licensed insurer which fails to comply with any condition imposed by the Authority under subsection (2) or (8) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.
- (11) Any licensed insurer which contravenes subsection (9) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a

further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

[Act 11 of 2013 wef 18/04/2013]

8A. *[Repealed by Act 11 of 2013 wef 18/04/2013]*

9. *[Repealed by Act 11 of 2013 wef 18/04/2013]*

10. *[Repealed by Act 11 of 2013 wef 18/04/2013]*

Annual fees of licensed insurers

11.—(1) Every licensed insurer shall pay to the Authority such annual fees as may be prescribed.

[11/86]

[Act 11 of 2013 wef 18/04/2013]

(2) The Authority may prescribe different annual fees for different classes of insurance business or for different types of licensed insurers.

[11/86]

[Act 11 of 2013 wef 18/04/2013]

(3) The Authority may, where it considers appropriate in a particular case, waive, refund or remit the whole or any part of any annual fee paid or payable under subsection (1).

[Act 11 of 2013 wef 18/04/2013]

Cancellation of licence

12.—(1) The Authority may by order cancel the licence of any insurer, either wholly or in respect of a class of business, at the request of the insurer or on any of the grounds set out in subsection (3).

(2) The Authority may impose such conditions as it thinks fit before cancelling the licence of an insurer at the request of the insurer under subsection (1), and the Authority may refuse to cancel the licence if the insurer does not comply with the conditions.

(3) The grounds referred to in subsection (1) are as follows:

(a) the insurer has not commenced business within 12 months after being licensed;

(b) the insurer has ceased to carry on insurance business whether wholly or in respect of any class of business;

- (c) it appears to the Authority that the insurer has failed to satisfy an obligation to which the insurer is subject by virtue of this Act;
- (d) there exists a ground on which the Authority would have been prohibited under section 8(3) from licensing the insurer;
- (e) the insurer proposes to make or has made any composition or arrangement with its creditors, has gone into liquidation or has been wound up or otherwise dissolved;
- (f) a receiver, a receiver and manager, or any other person having the powers and duties of a receiver, or a receiver and manager, has been appointed, whether in Singapore or elsewhere, in relation to, or in respect of any property of, the insurer or any of the shareholders of the insurer having control of the insurer;
- (g) there is a change of a person having control of the insurer, and —
 - (i) the new person having control of the insurer is not a fit and proper person; or
 - (ii) the Authority is not satisfied as to the financial standing of the insurer after the change;
- (h) the insurer is carrying on its business in a manner likely to be detrimental to the interests of its policy owners;
- (i) the insurer is unable to meet its obligations;
- (j) the insurer has failed to effect satisfactory reinsurance arrangements;
- (k) the insurer has contravened or is contravening —
 - (i) any condition of its licence;
 - (ii) any direction given by the Authority under this Act;
or
 - (iii) any provision of this Act;

- (l) any of the officers of the insurer holding a managerial or executive position has been convicted of any offence under this Act committed before, on or after the date of commencement of section 13 of the Insurance (Amendment) Act 2013;
 - (m) the insurer has furnished false, misleading or inaccurate information, or has concealed or failed to disclose material facts, in its application for a licence;
 - (n) the insurer, if incorporated outside Singapore, has had its licence or authority to operate withdrawn by the supervisory authority which is responsible, under the laws of the foreign country where the insurer is incorporated, for supervising the insurer;
 - (o) the insurer has contravened or is contravening any provision of the Deposit Insurance and Policy Owners' Protection Schemes Act (Cap. 77B) or any Rules issued by the deposit insurance and policy owners' protection fund agency under that Act;
 - (p) it is in the public interest to cancel the licence.
- (4) Before cancelling the licence of an insurer under subsection (1) other than at the request of the insurer, the Authority shall —
- (a) give the insurer notice in writing of the Authority's intention to do so; and
 - (b) in the notice referred to in paragraph (a), call upon the insurer to show cause, within such time as may be specified in the notice, as to why the licence should not be cancelled.
- (5) If the insurer referred to in subsection (4) —
- (a) fails to show cause within the time specified under subsection (4)(b) or within such extended period of time as the Authority may allow; or
 - (b) fails to show sufficient cause,
- the Authority shall give notice in writing to the insurer of the date on which the cancellation of the licence is to take effect.

(6) An order to cancel the licence of any insurer made under subsection (1) other than at the request of the insurer shall not take effect until the expiration of a period of 30 days after the Authority has informed the insurer of the cancellation under subsection (5).

(7) Any insurer which is aggrieved by a decision of the Authority under subsection (1) to cancel the insurer's licence other than at the insurer's request may, within 30 days after the Authority has informed the insurer of the cancellation under subsection (5), appeal to the Minister in writing in accordance with Part IIIB.

(8) If, within the period referred to in subsection (7), the insurer concerned gives due notice of appeal to the Minister, the order by the Authority to cancel the licence of the insurer shall not take effect unless the order is confirmed by the Minister or the appeal is for any reason dismissed by the Minister.

(9) Notwithstanding the cancellation of the licence of an insurer under subsection (1), so long as the insurer remains under any liability in respect of insurance policies belonging to the class of insurance business to which the licence relates, the insurer shall take such action as it considers necessary or as may be required by the Authority to ensure that —

- (a) reasonable provision has been or will be made for that liability; and
- (b) adequate arrangements exist or will exist for payment of premiums and claims on those policies.

(10) For the purposes of this section —

- (a) a person shall be regarded as having control of an insurer if the person alone or together with any associate or associates —
 - (i) holds 20% or more of the total number of issued shares in the insurer; or
 - (ii) is in a position to control 20% or more of the voting power in the insurer;

- (b) a reference to voting power in an insurer is a reference to the total number of votes that might be cast in a general meeting of the insurer;
- (c) a person, *A*, is an associate of another person, *B*, if —
- (i) *A* is the spouse, or a parent, remoter lineal ancestor or step-parent, a son, daughter, remoter issue, step-son or step-daughter, or a brother or sister of *B*;
 - (ii) *A* is a body corporate that is, or a majority of the directors of which are, accustomed or under an obligation whether formal or informal to act in accordance with the directions, instructions or wishes of *B*;
[Act 35 of 2014 wef 01/07/2015]
 - (iii) *[Deleted by Act 35 of 2014 wef 01/07/2015]*
 - (iv) *A* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B*;
 - (v) *A* is a subsidiary of *B*;
[Act 35 of 2014 wef 01/07/2015]
 - (vi) *[Deleted by Act 35 of 2014 wef 01/07/2015]*
 - (vii) *A* is a body corporate in which *B*, alone or together with other associates of *B* as described in sub-paragraphs (ii), (iv) and (v), is in a position to control not less than 20% of the voting power in *A*; or
[Act 35 of 2014 wef 01/07/2015]
 - (viii) *[Deleted by Act 35 of 2014 wef 01/07/2015]*
 - (ix) *A* is a person with whom *B* has an agreement or arrangement, whether oral or in writing and whether express or implied, to act together with respect to the acquisition, holding or disposal of shares or other interests in, or with respect to the exercise of their voting power in relation to, the insurer; and

- (d) a person holds a share if —
- (i) he is deemed to have an interest in that share under section 7(6) of the Companies Act (Cap. 50); or
 - (ii) he otherwise has a legal or an equitable interest in that share, except for such interest as is to be disregarded under section 7(7), (8) and (9) of the Companies Act.
- [Act 11 of 2013 wef 18/04/2013]*

12A. *[Repealed by Act 11 of 2013 wef 18/04/2013]*

Effects of cancellation of licence

13.—(1) Where an order of cancellation of the licence of an insurer under section 12 becomes effective —

- (a) the Authority shall publish a notice of the cancellation in the *Gazette*; and
 - (b) the insurer shall, as from the date of cancellation, cease to carry on insurance business in Singapore wholly or of the class in respect of which its licence has been cancelled, as the case may be.
- (2) Subsection (1)(b) shall not prejudice —
- (a) the enforcement by any policy owner or person of any right or claim against the insurer, or by the insurer of any right or claim against any policy owner or person; and
 - (b) the collection or receipt of premiums on insurance policies effected before the date of cancellation of the licence and belonging to the class of insurance business in respect of which the licence has been cancelled,

and section 3 shall not apply to the insurer in respect of the collection or receipt of the premiums referred to in paragraph (b).

(3) Notwithstanding the cancellation of the licence of an insurer, sections 36 and 37 shall, unless the Authority otherwise directs, continue to apply in relation to the insurer in respect of matters that occurred before the cancellation as if the licence had not been cancelled.

[Act 11 of 2013 wef 18/04/2013]

14. [Repealed by Act 16/2011 wef 01/05/2011]

14A. [Repealed by Act 11 of 2013 wef 18/04/2013]

15. [Repealed by Act 11 of 2013 wef 18/04/2013]

Register of policies

16.—(1) Every licensed insurer shall establish and keep —

- (a) a register of Singapore policies where it carries on business relating to Singapore policies; and
- (b) a register of offshore policies where it carries on business relating to offshore policies.

[11/86]

[Act 11 of 2013 wef 18/04/2013]

(2) Subject to this section, there shall be entered in the register of Singapore policies all Singapore policies of the insurer and in the register of offshore policies all offshore policies of the insurer, and no policy entered in any register shall be removed from it so long as the insurer is under any liability in respect of that policy.

[11/86]

(3) Subject to this section, there may be entered in the register of Singapore policies such other policies as the insurer, with the consent (express or implied) of the policy owners, may determine, and this Act shall apply in relation to any policy so entered as if it were a Singapore policy.

[11/86]

(4) Subject to subsection (5), an insurer carrying on life business outside Singapore (and not doing so only by the collection or receipt of premiums) may, at the request of the policy owner of a policy belonging to the insurer's life business —

- (a) refrain from entering the policy in the register of Singapore policies, notwithstanding that it is a Singapore policy; or
- (b) remove the policy from the register of Singapore policies,

and this Act shall thereafter apply in relation to the policy as if it were not a Singapore policy.

[11/86]

(5) Regulations may provide that subsection (3) or (4) shall apply only in such cases as may be prescribed or shall have effect subject to any prescribed exceptions or restrictions.

[11/86]

(6) A Singapore insurer shall, at the request of any person having an interest in any policy of the insurer, inform him whether or not the policy is entered in any register of policies established by the insurer under this Act.

[11/86]

(7) Where a Singapore insurer has established under this Act any register of policies, the register shall cease to exist as a statutory register under this Act of policies belonging to either class of insurance business, if the insurer ceases to be licensed under this Act in respect of that class of business; and any reference in this Act to policies registered under this Act shall be construed accordingly.

[11/86]

[Act 11 of 2013 wef 18/04/2013]

(8) Subject to subsection (7), any register of policies established by a Singapore insurer shall, notwithstanding that the insurer at any time ceases to carry on in Singapore either class of insurance business, continue to be maintained by the insurer for policies belonging to that class so long as the insurer is under any liability in respect of those policies registered or required to be registered at that time.

[11/86]

(9) No policies referred to in subsection (8) belonging to either class of insurance business shall be entered in the register under subsection (3) when the insurer is not carrying on that class of business in Singapore, or is doing so only by the collection or receipt of premiums.

[11/86]

(10) A register of policies established and kept by an insurer under this section before 1st January 1987 shall be deemed to be a register of Singapore policies under subsection (1).

[11/86]

Establishment of insurance funds and allocation of surplus

17.—(1) Every licensed insurer shall establish and maintain a separate insurance fund —

- (a) for each class of insurance business carried on by the insurer that relates to Singapore policies; and
- (b) for each class of insurance business carried on by the insurer that relates to offshore policies.

[11/86]

[Act 11 of 2013 wef 18/04/2013]

(1A) Every direct insurer licensed to carry on life business shall establish and maintain, in addition to the insurance funds under subsection (1) and subject to such conditions or restrictions as the Authority may impose, separate insurance funds —

- (a) for its investment-linked policies; and
- (b) for its non-investment-linked policies.

[23/2003 wef 01/01/2004]

[Act 11 of 2013 wef 18/04/2013]

(2) If, in the case of a direct insurer licensed to carry on life business, no part of the surplus of assets over liabilities from its non-participating policies is allocated by the insurer by way of bonus to its participating policies, the insurer shall, in addition to the funds maintained under subsections (1) and (1A) and subject to such conditions or restrictions as the Authority may impose, establish and maintain, in respect of its non-investment-linked policies, separate insurance funds —

- (a) for its participating policies; and
- (b) for its non-participating policies.

[23/2003 wef 01/01/2004]

[Act 11 of 2013 wef 18/04/2013]

(3) The Authority may require any licensed insurer to establish and maintain, in addition to the insurance funds under subsections (1), (1A) and (2), such other insurance fund as the Authority may determine for different types of policies in respect of each class of insurance business.

[11/86; 32/93]

[Act 11 of 2013 wef 18/04/2013]

(4) There shall be paid into an insurance fund all receipts of the insurer properly attributable to the business to which the fund relates

(including the income of the fund), and the assets comprised in the fund shall be applicable only to meet such part of the insurer's liabilities and expenses as is properly so attributable.

[16/2011 wef 01/05/2011]

[11/86]

(5) For the purposes of subsection (4), the Authority may prescribe or specify in directions what constitutes receipts, income, liabilities or expenses of the insurer which are properly attributable to the business to which an insurance fund relates and the manner in which each item is to be determined or valued.

[23/2003 wef 23/08/2004]

(6) In the case of an insurance fund maintained by a direct insurer licensed to carry on life business which comprises wholly or partly of participating policies —

(a) there shall be a surplus account, established and maintained in such manner as the Authority may prescribe or specify in directions, as part of the insurance fund;

[Act 11 of 2013 wef 18/04/2013]

(b) no part of the fund shall be allocated by way of bonus to the participating policies except —

(i) with the approval of the directors of the insurer, upon considering a written recommendation from the actuary appointed under section 31; and

(ii) where the making of such allocation does not contravene any condition or restriction that may be prescribed or specified in directions for the purposes of this section;

(c) no part of the fund shall be allocated to the surplus account except —

(i) with the approval of the directors of the insurer, upon considering a written recommendation from the actuary appointed under section 31;

(ii) where the making of such allocation does not contravene the fund solvency requirement under section 18;

- (iii) where the making of such allocation does not contravene any condition or restriction that may be prescribed or specified in directions for the purposes of this section; and
- (iv) where the amount does not exceed $\frac{1}{9}$ th of the amount allocated pursuant to paragraph (b) for a particular accounting period.

[23/2003 wef 23/08/2004]

[Act 11 of 2013 wef 18/04/2013]

(7) Notwithstanding subsection (6)(c), an insurer may make additional allocations to the surplus account of an insurance fund which comprises wholly or partly of participating policies of an amount and in a manner as prescribed or specified in directions by the Authority.

[23/2003 wef 23/08/2004]

(8) Where the amount allocated to the surplus account in a particular accounting period pursuant to subsection (6)(c) is less than $\frac{1}{9}$ th of the amount allocated pursuant to subsection (6)(b) for that accounting period, the insurer shall not allocate the difference between the amount actually allocated and the $\frac{1}{9}$ th amount allowed to the surplus account in any subsequent accounting period.

[23/2003 wef 23/08/2004]

(9) An insurer may, where there is a surplus of assets over liabilities of an insurance fund, at any time withdraw from the fund an amount not exceeding the surplus over any fund solvency requirement prescribed for that fund under section 18 if and only if —

- (a) there is no provision in any instrument or contract binding the insurer disallowing such a withdrawal; and
- (b) the insurer ascertains from the latest statement of accounts lodged with the Authority in accordance with section 36 or such other subsequent audited statement of accounts provided to the Authority that there is in fact such a surplus at the time of the withdrawal.

[23/2003 wef 23/08/2004]

(10) On the making of any withdrawal in accordance with subsection (9), the surplus of the fund shall, for the purposes of this section, be treated as reduced by the amount withdrawn.

[23/2003 wef 23/08/2004]

(11) Any amount withdrawn from an insurance fund under subsection (9) and, in a winding up, any part of an insurance fund remaining after meeting the liabilities and expenses to which the fund is applicable may be dealt with as if it had not formed part of the fund except that, in the case of a winding up where any other insurance fund of the insurer under this Act is in deficit, the surplus remaining after the winding up shall first be applied to make good the deficit in that fund.

[11/86; 32/93]

[23/2003 wef 23/08/2004]

(12) *[Deleted by Act 16/2011 wef 01/05/2011]*

(13) Any insurance fund established by an insurer for any class of insurance business shall, notwithstanding that the insurer at any time ceases to carry on that class of business in Singapore, continue to be maintained by the insurer so long as the insurer is required by this Act to maintain a register of policies for policies belonging to that class.

[11/86]

(14) *[Deleted by Act 11 of 2013 wef 18/04/2013]*

(15) *[Deleted by Act 11 of 2013 wef 18/04/2013]*

(16) The assets of any insurance fund established by an insurer under this Act shall be kept separate from all other assets of the insurer.

[11/86]

Fund solvency requirements and capital adequacy requirements

18.—(1) Every licensed insurer shall satisfy —

- (a) such fund solvency requirements in respect of each insurance fund established by the insurer under this Act; and
- (b) such capital adequacy requirements,

as may be prescribed or specified in directions for the purposes of this section.

[23/2003 wef 23/08/2004]

[Act 11 of 2013 wef 18/04/2013]

- (2) The Authority may prescribe or specify in directions —
- (a) different fund solvency requirements or capital adequacy requirements under subsection (1) for different classes of insurance business and for different types of insurers; and
 - (b) in respect of any type of insurers, any exception from the requirements of subsection (1).

[11/86]

[Act 11 of 2013 wef 18/04/2013]

[23/2003 wef 23/08/2004]

(3) Without prejudice to the generality of section 64, regulations made under this Act, or directions made under subsection (1) or (2), may —

- (a) provide for the determination of the value of assets and the amount of liabilities;
- (b) provide that, for any specified purpose, assets or liabilities of any specified class or description shall be left out of account or shall be taken into account only to a specified extent; and
- (c) make different provision in relation to different cases or circumstances.

[11/86]

(4) The Authority may by notice in writing, if it considers it appropriate in the particular circumstances of a licensed insurer having regard to the risks arising from the activities of the insurer and such other factors as the Authority considers relevant, direct that the insurer satisfy fund solvency requirements or capital adequacy requirements other than those that the insurer is required to maintain under this section.

[23/2003 wef 23/08/2004]

[Act 11 of 2013 wef 18/04/2013]

(5) Without prejudice to the generality of section 41, the failure of a licensed insurer to comply with subsection (1) or any direction of the Authority under subsection (4) shall be sufficient cause for the Authority to be satisfied that the affairs of the insurer are being conducted in a manner likely to be detrimental to the public interest or the interests of the policy owners and to issue such directions under section 41(1) as the Authority may consider necessary.

[23/2003 wef 23/08/2004]

[Act 11 of 2013 wef 18/04/2013]

(6) Any licensed insurer which contravenes subsection (1) or fails to comply with a direction of the Authority under subsection (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

[Act 11 of 2013 wef 18/04/2013]

Form, investment and situation of assets

19. The Authority may prescribe or specify in directions, either generally or in such circumstances and to such extent as may be prescribed or specified —

- (a) the manner in which the assets of any insurance fund of a licensed insurer are to be invested and the places in which such assets are to be maintained; and
- (b) the nature of the assets that is appropriate in relation to the currency in which the liabilities of the insurer are or may be required to be met.

[Act 11 of 2013 wef 18/04/2013]

Requirements as to documents evidencing title to assets of insurance funds

20.—(1) Where an insurer has established an insurance fund under this Act, the insurer shall secure that any document evidencing the insurer's title to assets of the fund, so long as the document is held by or on behalf of the insurer, shall be kept in Singapore or, if not so kept, shall be kept in the custody of a person in accordance with such directions as may be issued by the Authority.

[11/86; 41/2001]

(2) An insurer who has established an insurance fund under this Act shall from time to time notify the Authority in writing —

- (a) the person having the custody of any such document on behalf of the insurer, and the fact of any person ceasing to do so; and
- (b) the reason why any such document is not held by or on behalf of the insurer, and the identity of the document in question.

[11/86]

(3) Any such document which is, for the time being, held by or on behalf of the insurer shall, on the Authority giving not less than 14 days notice in writing to the insurer or to the person having the custody of the document, be produced for inspection to the Authority or a person nominated by it by the person to whom the notice is given.

[11/86]

(4) Any person who contravenes this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$12,500 and, in the case of a continuing offence, to a further fine not exceeding \$1,250 for every day or part thereof during which the offence continues after conviction.

[Act 11 of 2013 wef 18/04/2013]

Maintenance of assets by licensed insurers

21.—(1) The Authority may, from time to time, by notice in writing to any licensed insurer, or any class of licensed insurers, direct the insurer or class of insurers, as the case may be, each to maintain and hold such minimum amount or amounts of assets in Singapore as may be specified in the notice for the purpose of meeting its liabilities.

(2) Without prejudice to the generality of subsection (1), the Authority may, in a notice issued under that subsection, specify —

- (a) the types of liabilities in respect of which assets are to be maintained and held in Singapore;
- (b) the types of assets that are to be treated as assets maintained and held in Singapore, and the minimum amount or amounts in respect of each asset for the purpose of any requirement of the Authority under that subsection; and

- (c) the method for the valuation of assets maintained and held in Singapore, including any deduction to be made in respect of the assets.

(3) Where the Authority issues a notice under subsection (1) to a class of licensed insurers, the Authority may direct different insurers within the class of insurers to maintain and hold different minimum amounts of assets in Singapore, having regard to the financial soundness of each insurer, the risk profile of each insurer and such other factors as the Authority may consider relevant.

(4) Any licensed insurer which fails to comply with any direction of the Authority under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

[Act 11 of 2013 wef 18/04/2013]

Custody of assets of licensed insurers

22.—(1) The Authority may, in the case of a licensed insurer on which a requirement has been imposed under section 21, impose an additional requirement that the whole or a specified proportion of the assets to which the requirement under that section applies shall be held by a person approved by the Authority for the purposes of the requirement under this section as trustee for the insurer.

[11/86]

[Act 11 of 2013 wef 18/04/2013]

- (2) *[Deleted by Act 11 of 2013 wef 18/04/2013]*

(3) Assets of a licensed insurer held by a person as trustee for the insurer shall be taken to be held by him in compliance with a requirement imposed under this section if, and only if —

- (a) they are assets which the insurer has given him notice are to be held by him in compliance with such a requirement; or

[Act 11 of 2013 wef 18/04/2013]

- (b) they are assets into which assets which the insurer has given him such written notice have, by any transaction or series of

transactions, been transposed by him on the instructions of the insurer.

[11/86]

[Act 11 of 2013 wef 18/04/2013]

(4) No assets held by a person as trustee for a licensed insurer in compliance with a requirement imposed under this section shall, so long as the requirement is in force, be released except with the written consent of the Authority.

[11/86]

[Act 11 of 2013 wef 18/04/2013]

(5) If a mortgage or charge is created by a licensed insurer at a time when there is in force a requirement imposed on the insurer by virtue of this section, being a mortgage or charge conferring a security on any assets which are held by a person as trustee for the insurer in compliance with the requirement, the mortgage or charge shall, to the extent that it confers such a security, be void against the liquidator and any creditor of the insurer.

[11/86]

[Act 11 of 2013 wef 18/04/2013]

23. [Repealed by Act 11 of 2013 wef 18/04/2013]

Regulation of premiums under life policies and long-term accident and health policies

24.—(1) A direct insurer licensed to carry on life business shall not issue a life policy or a long-term accident and health policy of any description, being a Singapore policy or an offshore policy, if the premium chargeable under the policy is not in accordance with rates fixed with the approval of the actuary appointed under section 31 or, where no rates have been so fixed for policies of that description issued by the insurer, is not a premium approved for the policy by the actuary.

[Act 11 of 2013 wef 18/04/2013]

(2) The Authority may, by notice in writing, require a direct insurer licensed to carry on life business to obtain and furnish it within the time specified in the notice with —

- (a) a report by the actuary appointed under section 31 as to the suitability of the rates of premium for the time being

chargeable by the insurer for any description of life policy or long-term accident and health policy; and

- (b) if the actuary considers that the rates of premium are not suitable or not in accordance with sound insurance principles, a report as to the rates of premium which the actuary approves for that description of policy.

[Act 11 of 2013 wef 18/04/2013]

(3) For the purpose of subsection (1), regard shall be had to any report referred to in subsection (2) to the exclusion of any previous approval or report.

(4) For each occasion on which an insurer issues a policy in contravention of this section, the insurer shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000.

[23/2003 wef 01/01/2004]

[Act 11 of 2013 wef 18/04/2013]

Control of form of proposals, policies and brochures

25.—(1) The Authority may, by notice in writing, require a Singapore insurer to submit to it —

- (a) the forms of proposal and policy for the time being in use by the insurer in Singapore; and
- (b) any brochure which is for the time being in use by the insurer for describing the terms or conditions of, or the benefits to be or likely to be derived from, policies.

[11/86]

(2) Where the whole or part of any such form or brochure required under subsection (1) is not in English, there shall be submitted with it a translation in English.

[11/86]

(3) Unless it is otherwise provided, a requirement under this section shall apply to all such forms and brochures coming into use after the making of the requirement and before the Authority notifies the insurer that the requirement is withdrawn.

[11/86]

(4) If it appears to the Authority, after affording the insurer an opportunity to make representations orally or in writing, that any such form or brochure —

(a) contravenes any of the provisions of this Act; or

(b) is in any respect likely to mislead,

the Authority may, by notice in writing, direct the insurer to discontinue the use of the form or brochure in Singapore either immediately or from a date specified in the notice.

[11/86]

(5) No Singapore insurer shall use, in the course of carrying on insurance business in Singapore, a form of proposal which does not have prominently displayed therein a warning that if a proposer does not fully and faithfully give the facts as he knows them or ought to know them, he may receive nothing from the policy.

[11/86]

(6) For each occasion on which any insurer uses a copy of a form or brochure in contravention of subsection (4) or (5), the insurer shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for every day or part thereof during which the offence continues after conviction.

[11/86; 41/2001]

[Act 11 of 2013 wef 18/04/2013]

(7) In this section, “brochure” includes any leaflet, circular or similar advertising matter, whether printed or not.

Regulation of payment of remuneration

26.—(1) Any licensed insurer must not pay to any licensed financial adviser or exempt financial adviser, or a representative or a supervisor of any licensed financial adviser or exempt financial adviser, any remuneration in relation to —

(a) the provision of any financial advisory service in connection with any life policy; or

(b) the sale of any life policy following the provision of any financial advisory service,

except in accordance with regulations made under section 64 or a written notice issued by the Authority.

(2) The regulations or written notice referred to in subsection (1) may prescribe or specify the following:

- (a) the type and amount of the remuneration which may be payable in any particular period;
- (b) how the payment is to be made.

(3) Subsection (1) applies only to payment of remuneration which accrues —

- (a) on or after the date of commencement of section 2 of the Insurance (Amendment) Act 2015 (called in this section the commencement date); and
- (b) under any agreement or arrangement whether made before, on or after the commencement date.

(4) Any licensed insurer required to comply with subsection (1) must do so despite —

- (a) any written law in force on the commencement date or any rule of law to the contrary; or
- (b) any agreement or arrangement entered into before, on or after the commencement date.

(5) Any licensed insurer which complies with subsection (1) is not to be treated as having breached —

- (a) any rule of law or written law referred to in subsection (4)(a); or
- (b) any agreement or arrangement referred to in subsection (4)(b) which was entered into before the commencement date,

and no such agreement or arrangement is taken to be brought to an end by frustration solely by reason of any act done in compliance with subsection (1), or any regulation or written notice referred to in that subsection.

(6) Any licensed insurer which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for every day or part of a day during which the offence continues after conviction.

(7) In this section —

“remuneration” includes —

- (a) any monetary commission, incentive, benefit or reward;
- (b) any non-monetary incentive, benefit or reward; and
- (c) such other consideration as prescribed under section 64 or specified by the Authority by written notice;

“supervisor”, in relation to a financial adviser, has the same meaning as in section 2(1) of the Financial Advisers Act (Cap. 110).

[Act 19 of 2015 wef 01/01/2016]

Application and interpretation of sections 28 to 30

27.—(1) This section and sections 28 to 30 shall apply to, and in relation to, all individuals, whether resident in Singapore or not and whether citizens of Singapore or not, and to all bodies corporate or unincorporate, whether incorporated, formed, established or carrying on business in Singapore or not.

(2) For the purposes of sections 28 to 30 —

- (a) a reference to the control of a percentage of the voting power in an insurer is a reference to the control, whether direct or indirect, of that percentage of the total number of votes that might be cast in a general meeting of the insurer; and
- (b) any reference to “arrangement” includes a reference to any formal or informal scheme, arrangement or understanding, and any trust whether express or implied.

[Act 11 of 2013 wef 18/04/2013]

Control of take-overs of licensed insurers incorporated in Singapore

28.—(1) No person shall, on or after the date of commencement of section 24 of the Insurance (Amendment) Act 2013, obtain effective control of a licensed insurer incorporated in Singapore without the prior written approval of the Authority.

(2) The Authority may approve an application made by any person under subsection (1) if the Authority is satisfied that —

- (a) the person is a fit and proper person; and
- (b) having regard to the likely influence of the person, the licensed insurer concerned will or will continue to conduct its business prudently and comply with the provisions of this Act.

(3) Any approval under this section may be granted to any person subject to such conditions as the Authority may determine, including but not limited to any condition —

- (a) restricting the person's disposal or further acquisition of shares or voting power in the licensed insurer concerned; or
- (b) restricting the person's exercise of voting power in the insurer.

(4) The Authority may at any time add to, vary or revoke any condition imposed under subsection (3).

(5) Any condition imposed under subsection (3) or (4) shall have effect notwithstanding any of the provisions of the Companies Act (Cap. 50) or anything contained in the memorandum or articles of association of the licensed insurer concerned.

(6) Any person who contravenes subsection (1), or fails to comply with any condition imposed under subsection (3) or (4), shall be guilty of an offence and shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part

thereof during which the offence continues after conviction; or

- (b) in any other case, to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

(7) For the purposes of this section —

- (a) a person shall, subject to paragraph (b), be regarded as obtaining effective control of a licensed insurer if —

(i) the person, whether alone or together with his associates —

(A) holds 20% or more of the total number of issued shares in the insurer; or

(B) is in a position to control 20% or more of the voting power in the insurer;

(ii) the directors of the insurer are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the person (whether acting alone or together with any other person, and whether with or without holding shares or controlling voting power in the insurer); or

(iii) the person (whether acting alone or together with any other person, and whether with or without holding shares or controlling voting power in the insurer) is in a position to determine the policy of the insurer;

- (b) a person shall not be regarded as obtaining effective control of a licensed insurer if —

(i) the person is a director or any other officer of the insurer whose appointment has been approved by the Authority; or

(ii) the directors of the insurer are accustomed to act in accordance with the directions, instructions or wishes of the person by reason only that the directors act on

advice given by the person in his professional capacity;

(c) a person, *A*, is an associate of another person, *B*, if —

(i) *A* is the spouse, or a parent, remoter lineal ancestor or step-parent, a son, daughter, remoter issue, step-son or step-daughter, or a brother or sister of *B*;

(ii) *A* is a body corporate that is, or a majority of the directors of which are, accustomed or under an obligation whether formal or informal to act in accordance with the directions, instructions or wishes of *B*;

[Act 35 of 2014 wef 01/07/2015]

(iii) *[Deleted by Act 35 of 2014 wef 01/07/2015]*

(iv) *A* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B*;

(v) *A* is a subsidiary of *B*;

[Act 35 of 2014 wef 01/07/2015]

(vi) *[Deleted by Act 35 of 2014 wef 01/07/2015]*

(vii) *A* is a body corporate in which *B*, alone or together with other associates of *B* as described in sub-paragraphs (ii), (iv) and (v), is in a position to control not less than 20% of the voting power in *A*; or

[Act 35 of 2014 wef 01/07/2015]

(viii) *[Deleted by Act 35 of 2014 wef 01/07/2015]*

(ix) *A* is a person with whom *B* has an agreement or arrangement, whether oral or in writing and whether express or implied, to act together with respect to the acquisition, holding or disposal of shares or other interests in, or with respect to the exercise of their voting power in relation to, an insurer; and

- (d) a person holds a share if —
- (i) he is deemed to have an interest in that share under section 7(6) of the Companies Act (Cap. 50); or
 - (ii) he otherwise has a legal or an equitable interest in that share, except for such interest as is to be disregarded under section 7(7), (8) and (9) of the Companies Act.
- [Act 11 of 2013 wef 18/04/2013]*

Control of substantial shareholdings of licensed insurers incorporated in Singapore

29.—(1) No person shall, on or after the date of commencement of section 24 of the Insurance (Amendment) Act 2013, become a substantial shareholder of a licensed insurer incorporated in Singapore without the prior written approval of the Authority.

(2) No person shall, on or after the date of commencement of section 24 of the Insurance (Amendment) Act 2013, enter into any agreement or arrangement, whether oral or in writing and whether express or implied, to act together with any person with respect to the acquisition or holding of, or the exercise of rights in relation to, their interests in voting shares of an aggregate of 5% or more of the total votes attached to all voting shares in a licensed insurer which is incorporated in Singapore, without the prior written approval of the Authority.

(3) The Authority may approve an application made by any person under subsection (1) or (2) if the Authority is satisfied that —

- (a) the person is a fit and proper person; and
- (b) having regard to the likely influence of the person, the licensed insurer concerned will or will continue to conduct its business prudently and comply with the provisions of this Act.

(4) Any approval under this section may be granted to any person subject to such conditions as the Authority may determine, including but not limited to any condition —

- (a) restricting the person's further acquisition of shares or voting power in the licensed insurer concerned; or

(b) restricting the person's exercise of voting power in the insurer.

(5) The Authority may at any time add to, vary or revoke any condition imposed under subsection (4).

(6) Any condition imposed under subsection (4) or (5) shall have effect notwithstanding any of the provisions of the Companies Act (Cap. 50) or anything contained in the memorandum or articles of association of the licensed insurer concerned.

(7) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$125,000 and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction; or

(b) in any other case, to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

(8) Any person who fails to comply with any condition imposed under subsection (4) or (5) shall be guilty of an offence and shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction; or

(b) in any other case, to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

(9) For the purposes of this section, a person holds, or has an interest in, a share if —

- (a) he is deemed to have an interest in that share under section 7 of the Companies Act; or
- (b) he otherwise has a legal or an equitable interest in that share except for such interest as is to be disregarded under section 7 of the Companies Act.

[Act 11 of 2013 wef 18/04/2013]

Objection to existing control of licensed insurers incorporated in Singapore

29A.—(1) The Authority may serve a written notice of objection on any person referred to in section 28 or 29 if the Authority is satisfied that —

- (a) any condition of approval imposed on the person under section 28(3) or (4) or 29(4) or (5) has not been complied with;
- (b) the person has furnished any false or misleading information or document in connection with an application under section 28 or 29;
- (c) the Authority would not have granted its approval under section 28 or 29 had it been aware, at that time, of circumstances relevant to the person's application for such approval;
- (d) the person has ceased to be a fit and proper person; or
- (e) having regard to the likely influence of the person, the licensed insurer concerned is no longer likely to conduct its business prudently or to comply with the provisions of this Act.

(2) Before the service of a written notice of objection, the Authority shall, unless the Authority decides that it is not practicable or desirable to do so, cause to be given to the person concerned a notice in writing of the Authority's intention to serve the written notice of objection, specifying a date by which the person may make written representations with regard to the proposed written notice of objection.

(3) Upon receipt of any written representations, the Authority shall consider them for the purpose of determining whether to issue a written notice of objection.

(4) The Authority shall, in any written notice of objection, specify a reasonable period within which the person to be served the written notice of objection shall —

(a) take such steps as are necessary to ensure that the person ceases to be in effective control as defined in section 28, or ceases to be a substantial shareholder or a party to the agreement or arrangement described in section 29(2), as the case may be; or

(b) comply with such direction or directions as the Authority may make under section 29B.

(5) Any person served with a written notice of objection under this section shall comply with the notice.

(6) Any person who contravenes subsection (5) shall be guilty of an offence and shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction; or

(b) in any other case, to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

[Act 11 of 2013 wef 18/04/2013]

Power to make directions

29B.—(1) Without prejudice to section 29A, if the Authority is satisfied that any person has contravened section 28, 29 or 29A(5) or has failed to comply with any condition imposed under section 28(3) or (4) or 29(4) or (5), or if the Authority has served a written notice of

objection under section 29A, the Authority may, by notice in writing —

- (a) direct the transfer or disposal of all or any of the shares in the licensed insurer concerned held by the person or any of his associates (referred to in this section as the specified shares) within such time or subject to such conditions as the Authority considers appropriate;
- (b) restrict the transfer or disposal of the specified shares; or
- (c) make such other direction as the Authority considers appropriate.

(2) Any person to whom a notice is given under subsection (1) shall comply with such direction or directions as may be specified in the notice.

(3) In the case of any direction made under subsection (1)(a) or (b), until a transfer or disposal is effected in accordance with the direction or until the restriction on the transfer or disposal is removed, as the case may be, notwithstanding any of the provisions of the Companies Act (Cap. 50) or anything contained in the memorandum or articles of association of the licensed insurer concerned —

- (a) no voting rights shall be exercisable in respect of the specified shares unless the Authority expressly permits such rights to be exercised;
- (b) no shares of the insurer shall be issued or offered (whether by way of rights, bonus or otherwise) in respect of the specified shares unless the Authority expressly permits such issue or offer; and
- (c) except in a liquidation of the insurer, no payment shall be made by the insurer of any amount (whether by way of dividends or otherwise) in respect of the specified shares unless the Authority expressly authorises such payment.

(4) Any person who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding

3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction; or

- (b) in any other case, to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

[Act 11 of 2013 wef 18/04/2013]

Defences

29C.—(1) Where a person is charged with an offence in respect of a contravention of section 28 or 29, it shall be a defence for the person to prove that —

- (a) he was not aware that he had contravened section 28 or 29, as the case may be; and
- (b) he has, within 14 days after becoming aware that he had contravened section 28 or 29, as the case may be, notified the Authority of the contravention and, within such time as determined by the Authority, taken such actions in relation to his control of the voting power or his shareholding in the licensed insurer concerned as the Authority may direct.

(2) Where a person is charged with an offence in respect of a contravention of section 28, it shall also be a defence for the person to prove that, even though he was aware of the contravention —

- (a) the contravention occurred as a result of an increase in the shareholding as described in section 28(7)(d) of, or in the voting power controlled by, any of his associates described in section 28(7)(c)(i);
- (b) he has no agreement or arrangement, whether oral or in writing and whether express or implied, with that associate with respect to the acquisition, holding or disposal of shares or other interests in, or under which they act together in exercising their voting power in relation to, the licensed insurer concerned; and

- (c) he has, within 14 days after the date of the contravention, notified the Authority of the contravention and, within such time as may be determined by the Authority, taken such action in relation to his control of the voting power or his shareholding in the licensed insurer concerned as the Authority may direct.

(3) Except as provided in subsections (1) and (2), it shall not be a defence for a person charged with an offence in respect of a contravention of section 28 or 29 to prove that he did not intend to or did not knowingly contravene section 28 or 29, as the case may be.

[Act 11 of 2013 wef 18/04/2013]

Appeals

29D. Any person who is aggrieved by a decision of the Authority under section 28, 29, 29A or 29B may, within 30 days after being informed of the decision of the Authority, appeal to the Minister in writing in accordance with Part IIIB.

[Act 11 of 2013 wef 18/04/2013]

Power of Authority to obtain information from licensed insurer, shareholder or other relevant persons

30.—(1) The Authority may, by notice in writing, direct a licensed insurer that is incorporated in Singapore to obtain from any shareholder of the insurer, and to transmit to the Authority, information —

- (a) as to whether that shareholder holds any voting shares in the insurer as beneficial owner or as trustee; and
- (b) if that shareholder holds those shares as trustee, indicating as far as that shareholder is able to provide the person or persons for whom that shareholder holds those shares (either by name or by other particulars sufficient to enable the person or persons to be identified) and the nature of the interests of the person or persons,

and the insurer shall comply with that direction within such time as is specified in the notice.

[Act 11 of 2013 wef 18/04/2013]

(2) The Authority may, by notice in writing, require any shareholder of a licensed insurer which is incorporated in Singapore, or any person (referred to in this subsection as the relevant person) who appears from information provided to the Authority under subsection (1) or this subsection to have an interest in any share in a licensed insurer which is incorporated in Singapore, to provide to the Authority, within such time as may be specified in the notice or within such extended period of time as the Authority may allow, any information relating to the shareholder or the relevant person, as the case may be, which the Authority may require for the purpose of ascertaining or investigating into the control of shareholding or voting power in the insurer, or exercising any power or function under sections 28 to 29C, including any information —

- (a) as to whether the shareholder holds any share, or the relevant person holds that interest, as beneficial owner or as trustee, and if he holds that share or interest as trustee, indicating as far as he can the person for whom he holds that share or interest (either by name or by other particulars sufficient to enable that person to be identified) and the nature of that person's interest; or
- (b) as to whether any share or any voting right attached to the share is the subject of an agreement or arrangement described in section 28(7)(c)(ix) or 29(2), and if so, giving particulars of the agreement or arrangement and the parties to it,

and the shareholder or the relevant person, as the case may be, shall comply with that notice within such time as may be specified therein.

[Act 11 of 2013 wef 18/04/2013]

(3) Any person who —

- (a) fails to comply with a notice under this section; or
- (b) in purported compliance with the notice, knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence.

[Act 11 of 2013 wef 18/04/2013]

(4) Any person convicted of an offence under subsection (3) shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction; or

(b) in any other case, to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

[Act 11 of 2013 wef 18/04/2013]

(5) Where a person claims, before furnishing the Authority with any information or documents that he is required to furnish under subsection (2), that the information or documents might tend to incriminate him, the information or documents shall not be admissible in evidence against him in criminal proceedings other than proceedings under sections 28, 29, 29A and 29B.

[Act 11 of 2013 wef 18/04/2013]

Application of sections 27 to 30 to licensed insurer that is co-operative society

30A. Sections 27 to 30 shall apply, with the necessary modifications, to a licensed insurer that is a co-operative society as if it were a licensed insurer incorporated in Singapore.

[Act 11 of 2013 wef 18/04/2013]

Investment in corporations

30B.—(1) No licensed insurer which is established or incorporated in Singapore shall acquire or hold, directly or indirectly, a major stake in any corporation without the prior approval of the Authority.

(2) No licensed insurer which is incorporated outside Singapore shall, without the prior approval of the Authority —

(a) acquire, directly or indirectly, a major stake in any corporation using any of the assets of any insurance fund

established and maintained by the licensed insurer under this Act; or

- (b) hold, directly or indirectly, a major stake in any corporation as assets of any insurance fund established and maintained by the licensed insurer under this Act.

(3) Notwithstanding subsections (1) and (2) —

- (a) a licensed insurer who is a licensed insurer by virtue of section 68 of the Insurance (Amendment) Act 2013 may, during a period of 6 months after the date of commencement of section 25 of that Act or such longer period as the Authority may allow in any particular case, without the prior written approval of the Authority —

- (i) if the insurer is one referred to in subsection (1), hold, directly or indirectly, a major stake in any corporation; or

- (ii) if the insurer is one referred to in subsection (2), hold, directly or indirectly, a major stake in any corporation using any of the assets, or as assets, as the case may be, of any insurance fund established and maintained by the licensed insurer under this Act,

if the acquisition of the major stake was made before the date of commencement of section 25 of the Insurance (Amendment) Act 2013 and the insurer was not required by a condition of its registration under this Act in force immediately before that date to obtain the Authority's approval to such acquisition or the holding of the major stake; but

- (b) the licensed insurer shall not continue to hold any major stake referred to in paragraph (a) after the period referred to in that paragraph unless it has obtained the approval of the Authority.

(4) Any approval granted by the Authority under this section for a licensed insurer to acquire or hold, directly or indirectly, a major stake in a corporation may be subject to such conditions as the Authority

may determine, including any condition relating to the operations or activities of the corporation.

(5) The Authority may at any time add to, vary or revoke any condition imposed under subsection (4).

(6) This section shall not apply to —

- (a) any interest held by way of security for the purposes of a transaction entered into in the ordinary course of business of an insurer;
- (b) any shareholding or interest acquired or held by an insurer in the course of satisfaction of debts due to it which is disposed of at the earliest suitable opportunity; and
- (c) such other interest as may be prescribed.

(7) The Authority may, by regulations —

- (a) exclude the operation of this section in respect of any corporation or class of corporations, subject to such conditions as may be prescribed;
- (b) provide for the manner of computation of major stakes; and
- (c) provide that any interest or control referred to in the definition of “major stake” in subsection (9) that is acquired or held, directly or indirectly, by a corporation in which a licensed insurer has, directly or indirectly, a major stake, shall be deemed to be acquired or held by the insurer.

(8) Any licensed insurer which contravenes subsection (1) or (2), or fails to comply with any condition imposed or prescribed under this section, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

(9) In this section, unless the context otherwise requires —

(a) “major stake” means —

- (i) any beneficial interest exceeding 10% of the total number of issued shares or such other measure

corresponding to shares in a corporation as may be prescribed;

- (ii) control over more than 10% of the voting power or such other measure corresponding to voting power in a corporation as may be prescribed; or
- (iii) any interest in a corporation, where the directors of the company are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the licensed insurer concerned, or where the insurer is in a position to determine the policy of the corporation; and

(b) a reference to voting power in a corporation is a reference to the total number of votes that might be cast in a general meeting of the corporation.

(10) Any approval to acquire or hold a major stake in a corporation that was granted by the Authority before the date of commencement of section 25 of the Insurance (Amendment) Act 2013 to an insurer pursuant to a condition of the insurer's registration under this Act in force before that date shall, if such approval remains in force immediately before that date, be deemed to be an approval granted under this section.

[Act 11 of 2013 wef 18/04/2013]

Approval or removal of key executive person, chairman or director of licensed insurer

31.—(1) Subject to this section, a licensed insurer shall have —

- (a) a chief executive;
- (b) an appointed actuary, if the insurer is a direct insurer licensed to carry on life business;
- (c) a certifying actuary, if the insurer is a direct insurer licensed to carry on general business, or a reinsurer licensed to carry on life or general business; and

(d) such other person holding an appointment, or persons holding appointments, in the licensed insurer as may be prescribed.

(2) Subject to this section, a licensed insurer which is established or incorporated in Singapore shall have a chairman appointed from among its directors.

(3) Subject to this section, a licensed insurer may appoint a person as its deputy chief executive.

(4) No licensed insurer shall appoint a person as its key executive person unless —

- (a) the insurer has satisfied the Authority that the person is a fit and proper person to be so appointed; and
- (b) the insurer has obtained the approval of the Authority to so appoint the person.

(5) No licensed insurer which is established or incorporated in Singapore shall appoint a person as its chairman or director unless —

- (a) the insurer has satisfied the Authority that the person is a fit and proper person to be so appointed; and
- (b) the insurer has obtained the approval of the Authority to so appoint the person.

(6) The Authority may —

- (a) grant its approval, with or without conditions —
 - (i) to a licensed insurer to appoint a key executive person under subsection (4); or
 - (ii) to a licensed insurer which is established or incorporated in Singapore to appoint a person as its chairman or director, as the case may be, under subsection (5); and
- (b) at any time add to, vary or revoke any condition of approval referred to in paragraph (a) or impose any conditions thereto.

(7) Without prejudice to the generality of section 64, the Authority may prescribe the duties of the key executive persons of a licensed insurer, and the duties of the chairman and directors of a licensed insurer which is established or incorporated in Singapore.

(8) Where a licensed insurer has obtained the approval of the Authority to appoint a person as its key executive person under subsection (4), the person may be re-appointed in that office or appointment immediately upon the expiry of the earlier term without the approval of the Authority.

(9) Where a licensed insurer which is established or incorporated in Singapore has obtained the approval of the Authority to appoint a person as its chairman or director under subsection (5), the licensed insurer shall only appoint the person to hold such office or appointment for a term not exceeding such period as may be prescribed.

(10) If at any time it appears to the Authority that —

- (a) a key executive person of a licensed insurer, or the chairman or a director of a licensed insurer which is established or incorporated in Singapore, has failed to perform his functions or is no longer a fit and proper person to be so appointed; and
- (b) it is necessary in the public interest or for the protection of policy owners of a licensed insurer,

the Authority may direct the licensed insurer to remove the key executive person, chairman or director, as the case may be, from his office, appointment or employment.

(11) When determining, for the purpose of determining whether to grant its approval under subsection (4) or (5), or for the purposes of subsection (10)(a), whether a key executive person, chairman or director has failed to perform his functions, the Authority shall, without prejudice to any other matter it may consider relevant, have regard to such criteria as may be prescribed.

(12) Before directing a licensed insurer to remove a person from his office, appointment or employment under subsection (10), the Authority shall —

- (a) give the insurer and the person notice in writing of the Authority's intention to do so; and
- (b) in the notice referred to in paragraph (a), call upon the licensed insurer and the person to show cause within such time as may be specified in the notice why that person should not be removed.

(13) If the licensed insurer and the person referred to in subsection (12) —

- (a) fails to show cause within the time specified under subsection (12)(b) or within such extended period of time as the Authority may allow; or
- (b) fails to show sufficient cause,

the Authority shall give notice in writing to the insurer of the date on which the direction to remove the chairman, director or key executive person, as the case may be, is to take effect.

(14) Any person who is aggrieved by a direction of the Authority under subsection (10) may, within 30 days after receiving the direction, appeal to the Minister in writing in accordance with Part IIIB.

(15) Notwithstanding the lodging of an appeal under subsection (14), a direction to remove a licensed insurer's key executive person, chairman or director under subsection (10) shall continue to have effect pending the decision of the Minister.

(16) Any licensed insurer which contravenes subsection (1), (2), (4), (5) or (9), or fails to comply with any condition imposed by the Authority under subsection (6), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

(17) Any licensed insurer which fails to comply with any direction of the Authority under subsection (10) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000.

(18) Nothing in the Co-operative Societies Act (Cap. 62) or section 152 of the Companies Act (Cap. 50) shall prevent the Authority from exercising any power under subsection (10).

(19) No criminal or civil liability shall be incurred by a licensed insurer, or any person acting on behalf of the insurer, in respect of anything done or omitted to be done with reasonable care and in good faith in the discharge or purported discharge of the obligations of the insurer under this section.

(20) In this section, unless the context otherwise requires —

“chairman”, in relation to a licensed insurer, means the chairman of the board of directors of the insurer;

“key executive person” means a person holding any appointment referred to in subsection (1)(a) to (d) or (3).

[Act 11 of 2013 wef 18/04/2013]

Disqualification of director or executive officer of licensed insurer

31A.—(1) Notwithstanding section 31 or the provisions of any other written law —

- (a) a licensed insurer shall not, without the prior written consent of the Authority, permit a person to act as its executive officer; and
- (b) a licensed insurer which is established or incorporated in Singapore shall not, without the prior written consent of the Authority, permit a person to act as its director,

if the person —

- (i) has been convicted, whether in Singapore or elsewhere, of an offence committed before, on or after the date of commencement of section 26 of the Insurance (Amendment) Act 2013, being an offence —
 - (A) involving fraud or dishonesty;
 - (B) the conviction for which involved a finding that he had acted fraudulently or dishonestly; or

(C) specified in the Third Schedule to the Registration of Criminals Act (Cap. 268);

- (ii) is an undischarged bankrupt, whether in Singapore or elsewhere;
- (iii) has had execution against him in respect of a judgment debt returned unsatisfied in whole or in part;
- (iv) has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with his creditors, being a compromise or scheme of arrangement that is still in operation;
- (v) has had a prohibition order under section 35V, or under section 59 of the Financial Advisers Act (Cap. 110) or section 101A of the Securities and Futures Act (Cap. 289), made against him that remains in force; or
- (vi) has been a director of, or directly concerned in the management of, a regulated financial institution, whether in Singapore or elsewhere —
 - (A) which is being or has been, wound up by a court; or
 - (B) the licence of which has been revoked by the Authority or, in the case of a regulated financial institution in a foreign country, by the regulatory authority in that foreign country.

(2) Any licensed insurer which contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

(3) In this section, unless the context otherwise requires —

“regulated financial institution” means a person who carries on a business, the conduct of which is regulated or authorised by the Authority or, if carried on in Singapore, would be regulated or authorised by the Authority;

“regulatory authority” has the same meaning as in section 49A.

[Act 11 of 2013 wef 18/04/2013]

Restriction on granting of unsecured loans or advances to directors and employees of insurers

32.—(1) No licensed insurer shall in respect of its business in Singapore grant, directly or indirectly, unsecured loans or advances —

- (a) to a director of the insurer which in the aggregate and outstanding at any one time exceed the sum of \$5,000; or
- (b) to an employee of the insurer which in the aggregate and outstanding at any time exceed one year’s emolument of that employee.

[32/93; 30/99]

[Act 11 of 2013 wef 18/04/2013]

(2) In this section, “director” includes the wife, husband, father, mother, son or daughter of a director.

General obligation to furnish information

33.—(1) The Authority may, by notice in writing, require any Singapore insurer to furnish it with information about any matter related to any business carried on by the insurer in Singapore or elsewhere if, in the opinion of the Authority, it requires that information for the discharge of its functions under this Act.

(2) A licensed insurer which is or was a PPF Scheme member as defined in the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011, shall furnish to the PPF Agency, the Public Trustee appointed under the Public Trustee Act (Cap. 260) and any person authorised or appointed by the PPF Agency or the Public Trustee to perform its functions under the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011, upon request, such information, including information relating to its policy owners, as may be required by the PPF Agency, the Public Trustee or such person to carry out the objects and to perform the functions of the PPF Agency or the Public Trustee, as the case may be, under that Act.

(3) Subsection (2) shall apply notwithstanding the cancellation of the licence of the insurer under section 12, whether wholly or in respect of a class of business.

[Act 11 of 2013 wef 18/04/2013]

Licensed insurers to provide information for web aggregator

33A.—(1) Without affecting the generality of section 33, the Authority may, by regulations made under section 64 or written notice, require a licensed insurer or class of licensed insurers to provide to the Authority, or such person as may be specified in the regulations or notice (called in this section the specified person), such information as the Authority may require for the purposes of the web aggregator.

(2) For the purposes of subsection (1), the Authority may specify the time at which and the manner in which the information is to be furnished in the regulations or notice.

(3) The Authority or specified person may prepare and publish any information furnished under this section on the web aggregator.

(4) Any licensed insurer which fails to comply with any regulation or written notice referred to in subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

(5) Any licensed insurer which, in purported compliance with any regulation or written notice referred to in subsection (1), provides to the Authority or specified person any information which is false or misleading in a material particular shall be guilty of an offence and shall be liable on conviction —

- (a) in the case of an individual who committed the offence wilfully, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both;
- (b) in the case of an individual who did not commit the offence wilfully, to a fine not exceeding \$125,000; or

(c) in the case where the offence is committed by a person who is not an individual, to a fine not exceeding \$250,000.

(6) In subsection (5), “licensed insurer” includes any person acting on behalf of the licensed insurer to carry out its obligation under the regulation or written notice.

(7) Any licensed insurer which fails to take reasonable care that any information provided to the Authority or specified person under this section is accurate shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000.

(8) In this section and section 33B, “web aggregator” means an Internet portal or domain on the Internet which the Authority, or such person as the Authority may appoint, creates, develops and operates for the purposes of publishing certain information from time to time, to assist any person in the purchase of a policy.

[Act 19 of 2015 wef 01/01/2016]

Fees payable by licensed insurers for web aggregator

33B.—(1) Every licensed insurer must pay to the Authority such fees at such time and in such manner as may be prescribed for or in connection with all or any of the following:

- (a) the operation of the web aggregator;
- (b) the development of the web aggregator;
- (c) the maintenance of the web aggregator;
- (d) the usage by the licensed insurer, or a class of licensed insurers to which the licensed insurer belongs, of the web aggregator.

(2) Subject to subsection (3), the Authority may prescribe different fees for different licensed insurers or classes of licensed insurers in connection with all or any of the matters referred to in subsection (1)(a) to (d), and any fees so prescribed need not bear any relationship to the costs of the services provided by the Authority in relation to the web aggregator.

(3) The total fees payable by all the licensed insurers to the Authority under this section for any period of 12 months or a shorter

period, must not exceed the costs incurred by the Authority in connection with all of the following in that period:

- (a) the operation of the web aggregator;
- (b) the development of the web aggregator;
- (c) the maintenance of the web aggregator;
- (d) the usage by all the licensed insurers of the web aggregator.

(4) The Authority may, where the Authority considers appropriate in a particular case, waive, refund or remit the whole or any part of any fee paid or payable under subsection (1).

(5) Where a licensed insurer fails to pay the prescribed fees by the prescribed time, the Authority may impose a late payment fee of a prescribed amount for every day or part of a day that the payment is late, and both fees are recoverable by the Authority as a judgment debt.

[Act 19 of 2015 wef 01/01/2016]

Manufacture and offer of certain life policies

33C.—(1) If the Authority is of the opinion that it is in the public interest to do so, the Authority may direct a licensed insurer to manufacture and offer such type of life policy in Singapore as the Authority may prescribe or specify by written notice.

(2) Without affecting the generality of subsection (1), the Authority may, in prescribing or specifying a type of life policy under subsection (1), prescribe or specify all or any of the following with respect to the life policy:

- (a) the time by which the life policy is to be manufactured and offered;
- (b) the form and manner in which the life policy is to be manufactured or offered;
- (c) the characteristics of the life policy;
- (d) the terms of the life policy;
- (e) the benefits to be or likely to be derived from the life policy;
- (f) the manner of distribution or sale of the life policy.

(3) Any licensed insurer which fails to comply with the direction under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues after conviction.

(4) In this section, “manufacture”, in relation to a life policy, means —

- (a) the process of determining the appropriate premium rate or pricing for the life policy based on its product features and benefits; and
- (b) such other processes in relation to the life policy as the Authority may prescribe.

[Act 19 of 2015 wef 01/01/2016]

Division 3 — Authorised reinsurers

[Act 11 of 2013 wef 18/04/2013]

Authorisation of reinsurers

34.—(1) A person carrying on reinsurance business outside Singapore may apply to the Authority to be authorised for the purposes of this Act in such form and manner as the Authority may prescribe.

(2) The Authority may require the applicant to furnish it with such information or documents as the Authority considers necessary in relation to the application.

(3) The Authority may authorise the applicant with or without conditions, or refuse to authorise the applicant on any prescribed ground or on such other ground as the Authority thinks fit.

(4) The Authority may authorise the applicant as a general reinsurer or life reinsurer or both.

(5) The Authority shall cause notice of any authorisation or change of name of a reinsurer authorised under this section to be published in the *Gazette*.

(6) Any applicant which is aggrieved by the refusal of the Authority to authorise it under this section may, within 30 days after being informed of the decision of the Authority, appeal to the Minister in writing in accordance with Part IIIB.

(7) The Authority may at any time add to, vary or revoke any of the existing conditions of authorisation of a reinsurer or impose any conditions thereto.

(8) Any authorised reinsurer which fails to comply with any condition imposed by the Authority under subsection (3) or (7) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

[Act 11 of 2013 wef 18/04/2013]

Annual fees of authorised reinsurers

34A.—(1) Every authorised reinsurer shall pay to the Authority such annual fees as may be prescribed.

(2) The Authority may prescribe different annual fees for different classes of reinsurance business or for different types of authorised reinsurers.

(3) The Authority may, where it considers appropriate in a particular case, waive, refund or remit the whole or any part of any annual fee paid or payable under subsection (1).

[Act 11 of 2013 wef 18/04/2013]

Withdrawal of authorisation

34B.—(1) The Authority may by order withdraw the authorisation of any reinsurer, either wholly or in respect of a class of business, at the request of the reinsurer or on any of the grounds set out in subsection (2).

(2) The grounds referred to in subsection (1) are as follows:

- (a) the reinsurer has not commenced the business of providing reinsurance of liabilities under insurance policies to persons in Singapore within 12 months after being authorised;

- (b) the reinsurer has ceased to carry on the business of providing reinsurance of liabilities under insurance policies to persons in Singapore whether wholly or in respect of any class of business;
- (c) it appears to the Authority that the reinsurer has failed to satisfy an obligation to which the reinsurer is subject by virtue of this Act;
- (d) the reinsurer proposes to make or has made, whether in Singapore or elsewhere, any composition or arrangement with its creditors, has gone into liquidation or has been wound up or otherwise dissolved;
- (e) a receiver, a receiver and manager, a judicial manager, or any other person having the powers and duties of a receiver, a receiver and manager or a judicial manager, has been appointed, whether in Singapore or elsewhere, in relation to, or in respect of any property of, the reinsurer or any of the shareholders of the reinsurer having control of the reinsurer;
- (f) there is a change of a person having control of the reinsurer, and —
 - (i) the new person having control of the reinsurer is not a fit and proper person; or
 - (ii) the Authority is not satisfied as to the financial standing of the reinsurer after the change;
- (g) the reinsurer is carrying on its business in a manner likely to be detrimental to the interests of its policy owners, whether in Singapore or elsewhere;
- (h) the reinsurer is unable to meet its obligations, whether in Singapore or elsewhere;
- (i) the reinsurer has contravened or is contravening —
 - (i) any condition of its authorisation;
 - (ii) any direction given by the Authority under this Act;or

(iii) any provision of this Act;

- (j) any of the officers of the reinsurer holding a managerial or executive position has been convicted of any offence under this Act committed before, on or after the date of commencement of section 28 of the Insurance (Amendment) Act 2013;
- (k) the reinsurer has furnished false, misleading or inaccurate information, or has concealed or failed to disclose material facts, in its application for authorisation;
- (l) the reinsurer has had its licence or authority to operate withdrawn by the supervisory authority which is responsible, under the laws of the foreign country where the reinsurer is incorporated, formed or established, for supervising the reinsurer; or
- (m) it is in the public interest to withdraw the authorisation.

(3) Before withdrawing the authorisation of a reinsurer under subsection (1) other than at the request of the reinsurer, the Authority shall —

- (a) give the reinsurer notice in writing of the Authority's intention to do so; and
- (b) in the notice referred to in paragraph (a), call upon the reinsurer to show cause, within such time as may be specified in the notice, as to why the authorisation should not be withdrawn.

(4) If the reinsurer referred to in subsection (3) —

- (a) fails to show cause within the time specified under subsection (3)(b) or within such extended period of time as the Authority may allow; or
- (b) fails to show sufficient cause,

the Authority shall give notice in writing to the reinsurer of the date on which the withdrawal of authorisation is to take effect.

(5) An order to withdraw the authorisation of any reinsurer made under subsection (1) other than at the request of the reinsurer shall not

take effect until the expiration of a period of 30 days after the Authority has informed the reinsurer of the withdrawal under subsection (4).

(6) Any reinsurer which is aggrieved by a decision of the Authority under subsection (1) to withdraw the reinsurer's authorisation other than at the reinsurer's request may, within 30 days after the Authority has informed the reinsurer of the withdrawal under subsection (4), appeal to the Minister in writing in accordance with Part IIIB.

(7) If, within the period referred to in subsection (6), the reinsurer concerned gives notice of appeal to the Minister, the order by the Authority to withdraw the authorisation of the reinsurer shall not take effect unless the order is confirmed by the Minister or the appeal is for any reason dismissed by the Minister.

(8) Notwithstanding the withdrawal of the authorisation of a reinsurer under subsection (1), so long as the reinsurer remains under any liability in respect of insurance policies belonging to the class of insurance business to which the authorisation relates, the reinsurer shall take such action as it considers necessary or as may be required by the Authority to ensure that —

- (a) reasonable provision has been or will be made for that liability; and
- (b) adequate arrangements exist or will exist for the payment of premiums and claims on those policies.

(9) For the purposes of this section —

- (a) a person shall be regarded as having control of a reinsurer if the person alone or together with any associate or associates —
 - (i) holds 50% or more of the issued share capital (if any) of the reinsurer; or
 - (ii) is in a position to control 50% or more of the voting power in the reinsurer;
- (b) a reference to voting power in a reinsurer is a reference to the total number of votes that might be cast in a general meeting of the reinsurer; and

- (c) a person, *A*, is an associate of another person, *B*, if —
- (i) *A* is the spouse, or a parent, remoter lineal ancestor or step-parent, a son, daughter, remoter issue, step-son or step-daughter, or a brother or sister, of *B*;
 - (ii) *A* is a body corporate that is, or a majority of the directors of which are, accustomed or under an obligation whether formal or informal to act in accordance with the directions, instructions or wishes of *B*;
[Act 35 of 2014 wef 01/07/2015]
 - (iii) *[Deleted by Act 35 of 2014 wef 01/07/2015]*
 - (iv) *A* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B*;
 - (v) *A* is a subsidiary of *B*;
[Act 35 of 2014 wef 01/07/2015]
 - (vi) *[Deleted by Act 35 of 2014 wef 01/07/2015]*
 - (vii) *A* is a body corporate in which *B*, alone or together with other associates of *B* as described in sub-paragraphs (ii), (iv) and (v), is in a position to control not less than 20% of the voting power in *A*; or
[Act 35 of 2014 wef 01/07/2015]
 - (viii) *[Deleted by Act 35 of 2014 wef 01/07/2015]*
 - (ix) *A* is a person with whom *B* has an agreement or arrangement, whether oral or in writing and whether express or implied, to act together with respect to the acquisition, holding or disposal of shares or other interests in, or with respect to the exercise of their voting power in relation to, the reinsurer.
[Act 11 of 2013 wef 18/04/2013]

Effects of withdrawal of authorisation

34C.—(1) Where an order of withdrawal of the authorisation of a reinsurer under section 34B becomes effective —

- (a) the Authority shall publish a notice of the withdrawal in the *Gazette*; and
- (b) the reinsurer shall, as from the date of withdrawal, cease to carry on the business of providing reinsurance of liabilities under insurance policies to persons in Singapore wholly or of the class in respect of which its authorisation has been withdrawn, as the case may be.

(2) Subsection (1)(b) shall not prejudice —

- (a) the enforcement by any policy owner or person of any right or claim against the reinsurer or by the reinsurer of any right or claim against any policy owner or person; and
- (b) the collection or receipt of premiums on insurance policies effected before the date of withdrawal of the authorisation and belonging to the class of insurance business in respect of which the authorisation has been withdrawn,

and section 3 shall not apply to the reinsurer in respect of the collection or receipt of the premiums referred to in paragraph (b).

[Act 11 of 2013 wef 18/04/2013]

Deposits by authorised reinsurers

34D.—(1) Every authorised reinsurer shall maintain a reinsurance deposit of a value of such amount as the Authority may prescribe for the purposes of this section in respect of each class of business for which it is authorised.

(2) A deposit under subsection (1) shall be made in such form and manner, and in assets of such nature, as may be prescribed or specified in directions by the Authority for the purposes of this section.

(3) All income accruing in respect of a deposit under subsection (1) shall be payable to the authorised reinsurer making the deposit.

(4) The Authority may, in relation to a deposit under subsection (1), prescribe —

- (a) the rights and obligations of any party in relation to the deposit; and

- (b) any other matter which the Authority considers to be incidental to or necessary for this section.

[Act 11 of 2013 wef 18/04/2013]

Bank covenants in lieu of deposits

34E.—(1) If, in the case of any authorised reinsurer, a bank licensed under any written law for the time being in force relating to banking makes with the Authority an agreement in a form approved by the Authority whereby —

- (a) the bank covenants to deposit with the Authority a specified sum in cash on account of the reinsurer's deposit under section 34D(1); and
- (b) the covenant complies with any requirement the Authority sees fit to impose as to the circumstances in which that sum is to be deposited,

then, for the purposes of this Act, the reinsurer shall be treated as having made the deposit under that section and the sum so covenanted for shall be recoverable notwithstanding that no consideration is furnished on the agreement.

(2) Any sum deposited by a bank in pursuance of an agreement made under subsection (1) shall be dealt with under or for the purposes of this Act as if it were a sum deposited by the authorised reinsurer under section 34D.

[Act 11 of 2013 wef 18/04/2013]

Maintenance of assets by authorised reinsurers

34F.—(1) The Authority may, from time to time, by notice in writing to any authorised reinsurer, or any class of authorised reinsurers, direct the reinsurer or class of reinsurers, as the case may be, each to maintain and hold such minimum amount or amounts of assets in Singapore as may be specified in the notice for the purpose of meeting its liabilities.

(2) Without prejudice to the generality of subsection (1), the Authority may, in a notice issued under that subsection, specify —

- (a) the types of liabilities in respect of which assets are to be maintained and held in Singapore;

- (b) the types of assets that are to be treated as assets maintained and held in Singapore, and the minimum amount or amounts in respect of each asset for the purpose of any requirement of the Authority under that subsection; and
- (c) the method for the valuation of assets maintained and held in Singapore, including any deduction to be made in respect of the assets.

(3) Where the Authority issues a notice under subsection (1) to a class of authorised reinsurers, the Authority may direct different reinsurers within the class of reinsurers to maintain and hold different minimum amounts of assets in Singapore, having regard to the financial soundness of each reinsurer, the risk profile of each reinsurer and such other factors as the Authority may consider relevant.

(4) Any authorised reinsurer which fails to comply with any direction of the Authority under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

[Act 11 of 2013 wef 18/04/2013]

Custody of assets of authorised reinsurers

34G.—(1) The Authority may, in the case of an authorised reinsurer on which a requirement has been imposed under section 34F, impose an additional requirement that the whole or a specified proportion of the assets to which the requirement under that section applies shall be held by a person approved by the Authority for the purposes of the requirement under this section as trustee for the reinsurer.

(2) Assets of an authorised reinsurer held by a person as trustee for the reinsurer shall be taken to be held by him in compliance with a requirement imposed under this section if, and only if —

- (a) they are assets which the reinsurer has given him written notice are to be held by him in compliance with such a requirement; or
- (b) they are assets into which assets which the reinsurer has given him such written notice have, by any transaction or

series of transactions, been transposed by him on the instructions of the reinsurer.

(3) No assets held by a person as trustee for an authorised reinsurer in compliance with a requirement imposed under this section shall, so long as the requirement is in force, be released except with the written consent of the Authority.

(4) If a mortgage or charge is created by an authorised reinsurer at a time when there is in force a requirement imposed on the reinsurer by virtue of this section, being a mortgage or charge conferring a security on any assets which are held by a person as trustee for the reinsurer in compliance with the requirement, the mortgage or charge shall, to the extent that it confers such a security, be void against the liquidator and any creditor of the reinsurer.

[Act 11 of 2013 wef 18/04/2013]

General obligation of authorised reinsurers to furnish information

34H. The Authority may, by notice in writing, require any authorised reinsurer to furnish it with information about any matter related to any insurance business in respect of which the reinsurer is authorised if the Authority is of the opinion that it requires that information for the discharge of its functions under this Act.

[Act 11 of 2013 wef 18/04/2013]

Saving for validity of policies

35. Nothing in this Part, Part IIA or IIB shall invalidate any policy or contract of insurance.

[41/2001]

PART IIA

FOREIGN INSURER SCHEMES

Interpretation of this Part

35A. In this Part —

“administrator” means an administrator appointed by the Authority under section 35C in respect of a foreign insurer scheme;

“agent”, in relation to a foreign insurer, means an agent in respect of the carrying on of insurance business in Singapore by the foreign insurer, with authority to enter into contracts of insurance on behalf of the foreign insurer;

“chief executive officer”, in relation to an administrator or an agent for any foreign insurer carrying on insurance business in Singapore under a foreign insurer scheme, means any person, by whatever name described, who is employed by the administrator or the agent, as the case may be, to be principally responsible for the management and conduct of its business.

[Act 11 of 2013 wef 18/04/2013]

[Deleted by Act 11 of 2013 wef 18/04/2013]

[Deleted by Act 11 of 2013 wef 18/04/2013]

Establishment of foreign insurer schemes

35B. The Authority may by regulations establish any foreign insurer scheme for the purpose of permitting any member of any class, society or association of foreign insurers specified in the scheme to carry on insurance business in Singapore.

[41/2001]

Appointment of administrator of foreign insurer scheme, and removal of chief executive officer or director of administrator in certain circumstances

35C.—(1) The Authority shall, in respect of any foreign insurer scheme, appoint an administrator who shall be resident in Singapore.

[41/2001]

(2) Any person who wishes to be appointed as an administrator in respect of any foreign insurer scheme may apply to the Authority in such form and manner as the Authority may require.

[41/2001]

(3) Upon receiving an application under subsection (2), the Authority may grant the application either unconditionally or subject to such conditions as the Authority thinks fit or reject the application.

[41/2001]

(4) An administrator appointed under subsection (1) shall, in respect of the foreign insurer scheme for which the administrator is appointed —

- (a) have such responsibility for the operation of the scheme as may be prescribed; and
- (b) carry out such tasks in relation to the carrying on of insurance business in Singapore by the foreign insurers under the scheme as may be directed by the Authority or as may be prescribed.

[41/2001]

(5) Any appointment of an administrator under subsection (1) may be revoked if the administrator —

- (a) breaches any of the conditions on which the approval is granted; or
- (b) contravenes any of the provisions of this Act or any direction given by the Authority under this Act.

[41/2001]

(6) If at any time it appears to the Authority that the chief executive officer or a director of an administrator appointed under subsection (1) has failed to perform his functions or is no longer a fit and proper person to be so appointed, the Authority may direct the administrator to remove the chief executive officer or director, as the case may be, from his office, appointment or employment.

[Act 11 of 2013 wef 18/04/2013]

(7) When determining, for the purposes of subsection (6), whether the chief executive officer or a director of an administrator appointed under subsection (1) has failed to perform his functions, the Authority shall, without prejudice to any other matter it may consider relevant, have regard to such criteria as may be prescribed.

[Act 11 of 2013 wef 18/04/2013]

(8) Before directing an administrator to remove its chief executive officer or director from his office, appointment or employment under subsection (6), the Authority shall —

- (a) give the administrator and the chief executive officer or director, as the case may be, notice in writing of the Authority's intention to do so; and

- (b) in the notice referred to in paragraph (a), call upon the administrator and the chief executive officer or director, as the case may be, to show cause within such time as may be specified in the notice why the chief executive officer or director, as the case may be, should not be removed.

[Act 11 of 2013 wef 18/04/2013]

(9) If the administrator and the chief executive officer or director, as the case may be, referred to in subsection (8) —

- (a) fails to show cause within the time specified under subsection (8)(b) or within such extended period of time as the Authority may allow; or

- (b) fails to show sufficient cause,

the Authority shall give notice in writing to the administrator of the date on which the direction to remove the chief executive officer or director, as the case may be, is to take effect.

[Act 11 of 2013 wef 18/04/2013]

(10) Any administrator who fails to comply with any direction of the Authority under subsection (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000.

[Act 11 of 2013 wef 18/04/2013]

(11) No criminal or civil liability shall be incurred by an administrator, or any person acting on behalf of the administrator, in respect of anything done or omitted to be done with reasonable care and in good faith in the discharge or purported discharge of the obligations of the administrator under subsection (6).

[Act 11 of 2013 wef 18/04/2013]

Carrying on of insurance business by foreign insurer under foreign insurer scheme

35D.—(1) Where a foreign insurer scheme is established, each member of the class, society or association of foreign insurers specified in the scheme may, in accordance with the terms of the scheme, carry on such insurance business in Singapore as may be prescribed.

[41/2001]

(2) A foreign insurer shall not carry on insurance business in Singapore under a foreign insurer scheme unless —

- (a) an administrator has been appointed for the scheme under section 35C; and
- (b) the foreign insurer has, in accordance with regulations made under section 35L, authorised the administrator or an agent or both, as the case may be, to accept service of notices and legal processes on his or its behalf.

[41/2001]

(3) A foreign insurer shall not carry on insurance business in Singapore under a foreign insurer scheme if the foreign insurer is prohibited from so doing under section 35F.

[41/2001]

Non-application of Business Names Registration Act 2014 and Companies Act

35E. The Business Names Registration Act 2014 and the Companies Act (Cap. 50) shall not apply to any foreign insurer in respect of the carrying on of insurance business in Singapore by the foreign insurer under any foreign insurer scheme if the foreign insurer is permitted to carry on insurance business in Singapore in accordance with the terms of the foreign insurer scheme.

[41/2001]

[Act 29 of 2014 wef 03/01/2016]

Prohibition against carrying on insurance business in Singapore by foreign insurer under foreign insurer scheme

35F. The Authority may by notice in writing prohibit any foreign insurer from carrying on all or any kind of insurance business in Singapore under any foreign insurer scheme —

- (a) if the foreign insurer breaches or contravenes any of the terms of the scheme under which the foreign insurer carries on insurance business in Singapore; or
- (b) if the Authority considers it necessary in the public interest.

[41/2001]

Appointment of agent for foreign insurer scheme, and removal of chief executive officer or director of agent in certain circumstances

35G.—(1) Except as may be provided for in regulations made under section 35L, no person may act as an agent for any foreign insurer carrying on insurance business in Singapore under any foreign insurer scheme unless that person meets such requirements as may be prescribed.

[41/2001]

(2) Any agent for any foreign insurer carrying on insurance business in Singapore under any foreign insurer scheme shall carry out such tasks in relation to the carrying on of that insurance business in Singapore for the foreign insurer as may be directed by the Authority or as may be prescribed.

[41/2001]

(3) If at any time it appears to the Authority that the chief executive officer or a director of an agent for any foreign insurer carrying on insurance business in Singapore under a foreign insurer scheme has failed to perform his functions or is no longer a fit and proper person to be so appointed, the Authority may direct the agent to remove the chief executive officer or director, as the case may be, from his office, appointment or employment.

[Act 11 of 2013 wef 18/04/2013]

(4) When determining, for the purposes of subsection (3), whether the chief executive officer or a director of an agent for any foreign insurer carrying on insurance business in Singapore under a foreign insurer scheme has failed to perform his functions, the Authority shall, without prejudice to any other matter it may consider relevant, have regard to such criteria as may be prescribed.

[Act 11 of 2013 wef 18/04/2013]

(5) Before directing an agent for any foreign insurer carrying on insurance business in Singapore under a foreign insurer scheme to remove its chief executive officer or director from his office, appointment or employment under subsection (3), the Authority shall —

- (a) give the agent and the chief executive officer or director, as the case may be, notice in writing of the Authority's intention to do so; and
- (b) in the notice referred to in paragraph (a), call upon the agent and the chief executive officer or director, as the case may be, to show cause within such time as may be specified in the notice why the chief executive officer or director, as the case may be, should not be removed.

[Act 11 of 2013 wef 18/04/2013]

(6) If the agent and the chief executive officer or director, as the case may be, referred to in subsection (5) —

- (a) fails to show cause within the time specified under subsection (5)(b) or within such extended period of time as the Authority may allow; or
- (b) fails to show sufficient cause,

the Authority shall give notice in writing to the agent of the date on which the direction to remove the chief executive officer or director, as the case may be, is to take effect.

[Act 11 of 2013 wef 18/04/2013]

(7) Any agent, for any foreign insurer carrying on insurance business in Singapore under a foreign insurer scheme, which fails to comply with any direction of the Authority under subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000.

[Act 11 of 2013 wef 18/04/2013]

(8) No criminal or civil liability shall be incurred by an agent for any foreign insurer carrying on insurance business in Singapore under a foreign insurer scheme, or any person acting on behalf of the agent, in respect of anything done or omitted to be done with reasonable care and in good faith in the discharge or purported discharge of the obligations of the agent under subsection (3).

[Act 11 of 2013 wef 18/04/2013]

Right of hearing and appeal

35H.—(1) Before revoking any appointment of an administrator under section 35C(5) or prohibiting any foreign insurer from carrying

on insurance business in Singapore under section 35F, the Authority shall —

- (a) give the administrator or the foreign insurer, as the case may be, notice in writing of its intention to do so; and
- (b) in the notice referred to in paragraph (a), call upon the administrator or the foreign insurer to show cause within such time as may be specified in the notice why his or its appointment should not be revoked, or (as the case may be) why he or it should not be prohibited from carrying on insurance business in Singapore.

[41/2001]

(2) If the person to whom notice has been given under subsection (1) —

- (a) fails to show cause within the time given to him or it to do so or within such extended period of time as the Authority may allow; or
- (b) fails to show sufficient cause,

the Authority shall give notice in writing to that person of the date on which the revocation of appointment or the prohibition, as the case may be, is to take effect.

[41/2001]

(2A) A decision of the Authority to revoke any appointment of an administrator under section 35C(5) or to prohibit any foreign insurer from carrying on insurance business in Singapore under section 35F shall not take effect until the expiration of a period of 30 days after the Authority has informed the administrator of the revocation of appointment or the foreign insurer of the prohibition, as the case may be, under subsection (2).

[Act 11 of 2013 wef 18/04/2013]

(3) Any person who is aggrieved by a decision of the Authority to revoke any appointment of an administrator under section 35C(5) or to prohibit any foreign insurer from carrying on insurance business in Singapore under section 35F may, within 30 days after the Authority has informed the person of the revocation of appointment or the

prohibition, as the case may be, under subsection (2), appeal to the Minister in writing in accordance with Part IIIB.

[41/2001]

[Act 11 of 2013 wef 18/04/2013]

(4) If, within the period referred to in subsection (3), the person concerned gives due notice of appeal to the Minister, the revocation of appointment or the prohibition, as the case may be, by the Authority shall not take effect unless the decision is confirmed by the Minister or the appeal is for any reason dismissed by the Minister.

[Act 11 of 2013 wef 18/04/2013]

Effect of prohibition on carrying on insurance business

35I.—(1) Where a foreign insurer is prohibited from carrying on insurance business in Singapore, the foreign insurer shall cease to carry on in Singapore insurance business of the kind of which he or it is prohibited from carrying on.

[41/2001]

(2) Subsection (1) shall not prejudice the enforcement by any policy owner or person of any right or claim against the foreign insurer or by the foreign insurer of any right or claim against any policy owner or person.

[41/2001]

(3) Nothing in subsection (1) shall prohibit a foreign insurer from collecting or receiving premiums on insurance policies effected before the date of prohibition.

[41/2001]

Effect of revocation of appointment of administrator

35J.—(1) Where the appointment of the administrator of any foreign insurer scheme is revoked, all foreign insurers carrying on insurance in Singapore under that scheme shall cease to carry on in Singapore insurance business under the scheme.

[41/2001]

(2) Subsection (1) shall not prejudice the enforcement by any policy owner or person of any right or claim against the foreign insurer or by the foreign insurer of any right or claim against any policy owner or person.

[41/2001]

(3) Nothing in subsection (1) shall prohibit a foreign insurer from collecting or receiving premiums on insurance policies effected before the date the appointment of its administrator is revoked.

[41/2001]

Holding out as foreign insurer or as agent of foreign insurer

35K.—(1) Any person who —

- (a) holds himself or itself out as a foreign insurer permitted to carry on insurance business in Singapore under any foreign insurer scheme when he or it is not a foreign insurer, or is not permitted to carry on insurance business in Singapore under the foreign insurer scheme; or
- (b) holds himself or itself out as an agent permitted to act for a foreign insurer carrying on insurance business in Singapore under any foreign insurer scheme when he or it has not been appointed as the foreign insurer's agent or is not permitted to act as such an agent,

shall be guilty of an offence.

[Act 11 of 2013 wef 18/04/2013]

(2) Any person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction; or
- (b) in any other case, to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

[Act 11 of 2013 wef 18/04/2013]

Regulations

35L.—(1) The Authority may make such regulations as are necessary or expedient for the purpose of carrying out the provisions of this Part and, in particular, such regulations may —

- (a) require the foreign insurers who wish to carry on insurance business in Singapore under any foreign insurer scheme to obtain such undertakings and guarantees by any person acceptable to the Authority as the Authority considers necessary to secure for the benefit of potential claimants the payment of all potential claims that may arise from the carrying on of insurance business in Singapore by the foreign insurers under the scheme;
- (b) require the foreign insurers carrying on insurance business in Singapore under any foreign insurer scheme, or the administrator, on behalf of such foreign insurers, to make and maintain on behalf of all the foreign insurers carrying on business in Singapore under the scheme such insurance funds and deposits with the Authority as the Authority considers necessary to secure the payment of claims arising from contracts of insurance entered into by the foreign insurers under the scheme;
- (c) require the foreign insurers to authorise the administrator or an agent or both to accept service of notices and legal processes on his or its behalf;
- (d) provide for the imposition of a levy or fee in respect of the carrying on of insurance business in Singapore by the foreign insurers under any foreign insurer scheme;
- (e) require the administrator of a foreign insurer scheme to keep, in such form as may be prescribed —
 - (i) a register of foreign insurers carrying on insurance business in Singapore under that scheme;
 - (ii) a register of the agents of foreign insurers carrying on insurance business in Singapore under that scheme; and
 - (iii) such other registers relating to or connected with the activities of foreign insurers carrying on insurance business in Singapore under that scheme and their agents as the Authority may determine;

- (f) require the administrator of a foreign insurer scheme to furnish such accounts, reports and statements in respect of the carrying on of insurance business in Singapore by the foreign insurers under the scheme as may be prescribed;
- (g) provide for any other duties not referred to in paragraph (b), (e) or (f) of the administrator of a foreign insurer scheme in respect of the scheme;
- (h) require the appointment, and provide for the duties, of such officers of the administrator of any foreign insurer scheme as may be prescribed;

[Act 11 of 2013 wef 18/04/2013]
- (i) provide for the duties of the agents of foreign insurers carrying on insurance business in Singapore under any foreign insurer scheme, including requiring each agent to keep, in such form as may be prescribed —
 - (i) a register of foreign insurers carrying on insurance business in Singapore for whom he or it is an agent; and
 - (ii) such other registers relating to or connected with his or its activities as the Authority may determine;
- (j) prohibit any person from acting as agent for any foreign insurer carrying on insurance business in Singapore under any foreign insurer scheme unless it is a company having a prescribed minimum share capital and meets such other requirements as to shareholdings as may be prescribed;
- (k) empower the Authority to, and specify the circumstances in which the Authority may, prohibit any person from acting, or continuing to act, as agent for any foreign insurer carrying on insurance business in Singapore under any foreign insurer scheme and to specify the effects of a prohibition in respect of contracts of insurance entered into by the foreign insurer under any foreign insurer scheme before the date of prohibition;
- (l) provide for the exemption from, or modification of, the operation of the provisions of this Act in relation to any

foreign insurer carrying on insurance business in Singapore under any foreign insurer scheme or any of its agents; and

(m) provide for any transitional provisions necessary in the event of the revocation of any foreign insurer scheme.

(2) The Authority may, from time to time and in such form or manner as it considers appropriate, publish any information obtained or received by the Authority under regulations made under subsection (1).

[Act 11 of 2013 wef 18/04/2013]

PART IIB

INSURANCE INTERMEDIARIES

Division 1 — General provisions relating to insurance intermediaries

Insurance agent to operate under written agreement

35M.—(1) An insurance agent shall not arrange, or hold himself out as entitled to arrange, a contract of insurance as agent for a licensed insurer unless an agreement in writing between the insurance agent and the insurer authorises the insurance agent to arrange, as agent for that insurer —

- (a) that contract;
- (b) any contract of insurance; or
- (c) any class of contracts of insurance which includes that contract.

[41/2001]

[Act 11 of 2013 wef 18/04/2013]

(2) A licensed insurer shall not cause or permit an insurance agent to arrange, or hold himself out as entitled to arrange, a contract of insurance as agent for that insurer unless an agreement in writing between the insurer and the insurance agent authorises the insurance agent to arrange, as agent for that insurer —

- (a) that contract;
- (b) any contract of insurance; or

- (c) any class of contracts of insurance which includes that contract.

[41/2001]

[Act 11 of 2013 wef 18/04/2013]

(3) Subsections (1) and (2) shall not apply in relation to any act or thing done by an employee of a licensed insurer in the course of performing his duties as such an employee.

[41/2001]

[Act 11 of 2013 wef 18/04/2013]

(3A) Subsection (1) shall not apply to —

- (a) a licensed financial adviser;
- (b) a person exempt from holding a financial adviser's licence in respect of any financial advisory service under section 23(1)(a), (b), (c), (d) or (e) of the Financial Advisers Act (Cap. 110), other than a licensed insurer; and
- (c) a representative of a person referred to in paragraph (a) or (b),

where they arrange, or hold themselves out as entitled to arrange, a contract of insurance in respect of life policies, other than contracts for the reinsurance of liabilities under life policies, as agent for a licensed insurer.

[23/2003 wef 01/01/2004]

[Act 11 of 2013 wef 18/04/2013]

(3B) Subsection (1) shall not apply to a licensed insurer and any insurance agent acting for that insurer where they arrange, or hold themselves out as entitled to arrange, a contract of insurance in respect of life policies, other than contracts for the reinsurance of liabilities under life policies, as agent for another licensed insurer.

[23/2003 wef 01/01/2004]

[Act 11 of 2013 wef 18/04/2013]

(3C) Subsection (2) shall not apply to a licensed insurer in relation to an insurance agent who is a person specified in subsection (3A) or (3B).

[23/2003 wef 01/01/2004]

[Act 11 of 2013 wef 18/04/2013]

(4) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for every day or part thereof during which the offence continues after conviction.

[41/2001]

Application of sections 35O to 35R and 35T, 35TA, 35U and 35V

35N.—(1) Sections 35O and 35Q shall not apply to a general reinsurance broker or life reinsurance broker in respect of contracts for the reinsurance of liabilities under insurance policies.

[41/2001]

[23/2003 wef 01/01/2004]

(2) Section 35P shall not apply to —

- (a) a licensed financial adviser or exempt financial adviser, or its representatives, in respect of life policies, other than life policies with accident and health benefits and contracts for the reinsurance of liabilities under insurance policies; or
- (b) a general reinsurance broker or life reinsurance broker in respect of contracts for the reinsurance of liabilities under insurance policies.

[41/2001]

[23/2003 wef 01/01/2004]

(3) Sections 35R, 35T, 35U and 35V shall not apply to a licensed financial adviser or an exempt financial adviser, or its representatives, in respect of life policies, other than contracts for the reinsurance of liabilities under insurance policies.

[23/2003 wef 01/01/2004]

(4) Section 35TA shall not apply to a licensed financial adviser or an exempt financial adviser, or its representatives, in respect of life policies, other than life policies with accident and health benefits and contracts for the reinsurance of liabilities under insurance policies.

[23/2003 wef 01/01/2004]

Effect of payment to insurance intermediary

350.—(1) Where a contract of insurance is arranged or effected by an insurance intermediary, payment to the insurance intermediary of moneys payable by the insured to the insurer under or in relation to the contract (whether in respect of a premium or otherwise) shall be a discharge, as between the insured and the insurer, of any liability of the insured under or in respect of the contract, to the extent of the amount of the payment.

[41/2001]

(2) Payment to an insurance intermediary by or on behalf of an intending insured of moneys in respect of a contract of insurance to be arranged or effected by the insurance intermediary (whether the payment is in respect of a premium or otherwise) shall be a discharge, as between the insured and the insurer, of any liability of the insured under or in respect of the contract, to the extent of the amount of the payment.

[41/2001]

(3) Payment by an insurer to an insurance intermediary of moneys payable to an insured (whether in respect of a claim, return of premiums or otherwise) under or in relation to a contract of insurance, shall not discharge any liability of the insurer to the insured in respect of those moneys.

[41/2001]

(4) An agreement, insofar as it purports to alter or restrict the operation of subsection (1), (2) or (3), shall be void.

[41/2001]

(5) Subsection (4) shall not render void an agreement between an insurance intermediary and an insured insofar as the agreement allows the insurance intermediary to set off, against moneys payable to the insured, moneys payable by the insured to the insurance intermediary in respect of premiums.

[41/2001]

Pre-contract disclosure by insurance intermediary

35P.—(1) No insurance intermediary shall invite any person to make an offer or proposal to enter into a contract of insurance without disclosing to the person all material information, including —

- (a) the name of the licensed insurer;
[Act 11 of 2013 wef 18/04/2013]
- (b) his relationship with the licensed insurer;
[Act 11 of 2013 wef 18/04/2013]
- (c) the premium charged by the licensed insurer; and
[Act 11 of 2013 wef 18/04/2013]
- (d) such other information as the Authority may prescribe or specify in directions.
[23/2003 wef 01/01/2004]
[41/2001]

(2) No insurance intermediary shall arrange any group policy for 2 or more persons where any person insured under the group policy is liable to pay the premium without disclosing to every person insured under the group policy all material information, including —

- (a) the name of the licensed insurer;
[Act 11 of 2013 wef 18/04/2013]
- (b) his relationship with the licensed insurer;
[Act 11 of 2013 wef 18/04/2013]
- (c) the conditions of the group policy;
- (d) the premium charged by the licensed insurer; and
[Act 11 of 2013 wef 18/04/2013]
- (e) such other information as the Authority may prescribe or specify in directions.
[23/2003 wef 01/01/2004]
[41/2001]

(2A) Any insurance intermediary who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months or to both.

[23/2003 wef 01/01/2004]

(3) In this section, “insurance intermediary” includes the group policy owner of any group policy.

[41/2001]

Effect of payment to group policy owner and liability of insurer under group policy

35Q.—(1) This section applies to any group policy where any person insured under the group policy is liable to pay a premium.

[41/2001]

(2) Payment to the group policy owner of moneys payable by any person insured under the group policy to the insurer under or in relation to the group policy (whether in respect of a premium or otherwise) shall be a discharge, as between the person insured and the insurer, of any liability of the person insured under or in respect of the group policy, to the extent of the amount of the payment.

[41/2001]

(3) The licensed insurer of a group policy shall pay the moneys due under the policy to the person insured or any person entitled through him if the person insured has paid the premium or is regarded as having paid the premium under subsection (2), and is entitled to the benefit under the policy.

[41/2001]

[Act 11 of 2013 wef 18/04/2013]

Representation by insurance intermediary

35R.—(1) No insurance intermediary shall, with intent to deceive, make a false or misleading statement as to —

- (a) any amount that would be payable in respect of a proposed contract of insurance; or
- (b) the effect of any provision of a contract of insurance or a proposed contract of insurance.

[41/2001]

(2) A reference in subsection (1) to making a misleading statement includes a reference to omitting to disclose any matter that is material to a statement.

[41/2001]

(3) No insurance intermediary shall, with intent to deceive, in relation to a proposed contract of insurance —

- (a) write on a form, being a form that is given or sent to an insurer, any matter that is material to the contract and is false or misleading in a material particular;
- (b) omit to disclose to the insurer any matter that is material to the proposed contract;
- (c) advise or induce the intending insured to write on a form, being a form that is given or sent to an insurer, any matter that is false or misleading in a material particular; or
- (d) advise or induce the intending insured to omit to disclose to the insurer any matter that is material to the proposed contract.

[41/2001]

(4) No insurance intermediary shall, with intent to deceive, in relation to a claim under a contract of insurance —

- (a) fill up, in whole or in part, a form, being a form that is given or sent to an insurer, in such a way that the form is false or misleading in a material particular;
- (b) omit to disclose to the insurer any matter that is material to the claim;
- (c) induce the insured to fill up, in whole or in part, a form, being a form that is given or sent to the insurer, in such a way that the form is false or misleading in a material particular; or
- (d) advise or induce the insured to omit to disclose to the insurer any matter that is material to the claim.

[41/2001]

(5) Any person who contravenes subsection (1), (3) or (4) shall, notwithstanding that a contract of insurance does not come into being, be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both.

[41/2001]

[23/2003 wef 01/01/2004]

Insurance agent to act only for insurers entitled to carry on business in Singapore

35S.—(1) No person shall, without the approval of the Authority, act as an insurance agent for an insurer in respect of any insurance business which the insurer is not entitled to carry on in Singapore under this Act.

[41/2001]

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 3 years or to both.

[41/2001]

(3) Where the Authority has, under section 7 of the Insurance Intermediaries Act (Cap. 142A) in force before 1st October 2002*, approved any person to act as an insurance agent for an insurer in respect of any insurance business which the insurer is not entitled to carry on in Singapore, the approval shall continue in force as if granted by the Authority under subsection (1).

[41/2001]

Control of written communication used by insurance intermediary

35T.—(1) The Authority may, by notice in writing, require any insurance intermediary to submit to it any written communication which is for the time being in use by the insurance intermediary for describing the terms or conditions of, or the benefits to be or likely to be derived from, policies.

[41/2001]

(2) Where the whole or part of any written communication referred to in subsection (1) is not in English, there shall be submitted with it a translation in English.

[41/2001]

(3) A requirement made under subsection (1), unless it is otherwise provided therein, shall apply to all such written communication coming into use after the making of the requirement and before the

* Date of commencement of section 20 of the Insurance (Amendment) Act 2001 (Act 41 of 2001).

Authority notifies the insurance intermediary that the requirement is withdrawn.

[41/2001]

(4) If it appears to the Authority that any such written communication used by an insurance intermediary contravenes any provision of this Part, or is in any respect likely to mislead, the Authority may (after affording the insurance intermediary an opportunity to make representations orally or in writing), by notice in writing, direct the insurance intermediary to discontinue the use in Singapore of the written communication immediately or from such date as may be specified in the notice.

[41/2001]

(5) For each occasion on which any insurance intermediary fails to comply with a requirement under subsection (1) or uses any written communication in contravention of subsection (4), the insurance intermediary shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months or to both.

[41/2001]

[23/2003 wef 01/01/2004]

(6) In this section, “written communication” includes any brochure, leaflet, circular or advertising matter, whether in electronic, print or other form.

[41/2001]

Business conduct of insurance intermediaries

35TA. Without prejudice to the generality of section 64(1) and (2), the Authority may make regulations or issue directions for or with respect to —

- (a) the standards to be maintained by an insurance intermediary in the conduct of business under this Act, including the standards in relation to the obligation to disclose information to insureds;
- (b) the qualifications, experience and training of an insurance intermediary and, where the insurance intermediary is a corporation or an association, of the officers, agents and employees of the insurance intermediary; and

- (c) the procedure for the conduct of disciplinary control of insurance intermediaries and, where the insurance intermediary is a corporation or an association, of the officers, agents and employees of the insurance intermediary.

[23/2003 wef 01/01/2004]

Obligation to furnish information to Authority

35U. The Authority may, by notice in writing, require any insurance intermediary to furnish it with information about any matter related to his business carried on in Singapore or elsewhere if, in the opinion of the Authority, it requires that information for the discharge of its functions under this Act.

[41/2001]

Authority may prohibit person from carrying on business as insurance intermediary

35V.—(1) The Authority may, by order, prohibit any person from carrying on business as an insurance intermediary or from taking part, directly or indirectly, in the management of any insurance intermediary —

- (a) where the person has been convicted, whether in Singapore or elsewhere, of an offence involving fraud, dishonesty or moral turpitude or the conviction for which involved a finding that he acted fraudulently or dishonestly; or
- (b) where the Authority is satisfied that the person has —
- (i) forged policyholders' signatures;
 - (ii) misappropriated policyholders' premiums;
 - (iii) contravened any provision of this Act;
 - (iv) given false, misleading or inaccurate information in its application to the insurer;
 - (v) wilfully misled any policyholder when assisting him to fill up the proposal form;
 - (vi) used dishonest means to meet the requirements set up by the insurer; or

- (vii) been involved in any activity prejudicial to the public interest.

[41/2001]

(2) Before prohibiting any person from carrying on business as an insurance intermediary or from taking part, directly or indirectly, in the management of any insurance intermediary, the Authority shall —

- (a) give the person notice in writing of its intention to do so; and
- (b) in the notice referred to in paragraph (a), call upon the person to show cause within such time as may be specified in the notice why he or it should not be prohibited from carrying on business as an insurance intermediary or from taking part, directly or indirectly, in the management of any insurance intermediary, as the case may be.

[41/2001]

(3) If the person to whom notice has been given under subsection (2) —

- (a) fails to show cause within the time given to him or it to do so or within such extended period of time as the Authority may allow; or
- (b) fails to show sufficient cause,

the Authority shall give notice in writing to that person of the date on which the prohibition is to take effect.

[41/2001]

(4) Any person who is aggrieved by a decision of the Authority under subsection (1) may, within 30 days of the decision of the Authority, appeal to the Minister in writing in accordance with Part IIIB.

[41/2001]

(5) No insurer or insurance intermediary shall employ or otherwise deal with any person who has been issued an order under subsection (1) where any activity to be undertaken by the person pursuant to such employment or dealing is prohibited by the order.

[41/2001]

(6) Any person who —

- (a) fails to comply with an order of the Authority made under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$75,000 or to imprisonment for a term not exceeding 2 years or to both;
- (b) contravenes subsection (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both.

[41/2001]

(7) Where the Authority has, under section 31 of the Insurance Intermediaries Act (Cap. 142A) in force before 1st October 2002, by order prohibited any person from carrying on business as an insurance intermediary or from taking part, directly or indirectly, in the management of any insurance intermediary, the order shall continue in force as if made by the Authority under subsection (1).

[41/2001]

Division 2 — Conduct of insurance broking business

[11/2013 wef 18/04/2013]

Insurance broker not to carry on business unless registered

35W.—(1) No person shall carry on business as any type of insurance broker in Singapore unless —

- (a) the person is registered by the Authority as that type of insurance broker; or
- (b) the person is exempted from registration under section 35ZN.

[23/2003 wef 01/01/2004]

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$75,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$7,500 for every day or part thereof during which the offence continues after conviction.

[41/2001]

Registration of insurance brokers

35X.—(1) A person who desires to carry on business as an insurance broker shall apply in writing to the Authority for registration under this section and shall furnish such information as the Authority may require.

[41/2001]

(2) Upon receiving an application under subsection (1), the Authority shall consider the application and may, subject to section 35Y —

- (a) register the applicant with or without conditions; or
- (b) refuse to register the applicant.

[41/2001]

(3) The Authority may register the applicant as a direct insurance broker, general reinsurance broker, life reinsurance broker or a combination of any of these.

[41/2001]

[23/2003 wef 01/01/2004]

(4) Subject to subsection (5), any person who has been registered under section 16 of the Insurance Intermediaries Act (Cap. 142A) in force before 1st October 2002 as a direct general insurance broker, general reinsurance broker, life reinsurance broker or a combination of any of these shall be deemed to be registered as such under subsection (2).

[41/2001]

[23/2003 wef 01/01/2004]

(5) Any person who is registered or deemed to be registered under this section as a direct general insurance broker immediately before the date of commencement of the Insurance (Amendment) Act 2003 shall, as from that date, be deemed to be registered as a direct insurance broker under subsection (2).

[23/2003 wef 01/01/2004]

(6) Any applicant who is aggrieved by the refusal of the Authority to register it under this section may, within 30 days after being informed of the decision of the Authority, appeal to the Minister in writing in accordance with Part IIIB.

[Act 11 of 2013 wef 18/04/2013]

Registration requirements

35Y.—(1) The Authority shall not register any applicant under section 35X unless the applicant —

- (a) is a company;
- (b) has a paid-up share capital which is not less than such amount as may be prescribed; and
- (c) has in force a professional indemnity insurance policy, the cover of which is consistent with such limit and deductible requirements as may be prescribed.

[41/2001]

[23/2003 wef 01/01/2004]

(2) For the purposes of subsection (1)(b) and (c), the Authority may prescribe different amounts for different types of insurance brokers.

[41/2001]

(3) In subsection (1)(c), “professional indemnity insurance policy” means a contract of insurance with an insurer under which a person is indemnified in respect of the liabilities arising out of or in the course of his business as an insurance broker.

[41/2001]

Conditions of registration

35Z.—(1) The Authority may at any time add to, vary or revoke any existing condition of registration of an insurance broker or impose any new condition thereto.

[41/2001]

(2) Any insurance broker which fails to comply with any of the conditions imposed by the Authority under subsection (1) or section 35X(2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[41/2001]

Annual fees

35ZA.—(1) Every registered insurance broker shall pay to the Authority such annual fees as may be prescribed.

[41/2001]

(2) The Authority may prescribe different annual fees for different types of registered insurance brokers.

[41/2001]

(3) The Authority may exempt wholly or in part any registered insurance broker from the payment of the annual fees prescribed under this section.

[41/2001]

Cancellation of registration

35ZB.—(1) The Authority may by order, at the request of the insurance broker or on any ground specified under subsection (2), cancel the registration of any insurance broker.

(2) The grounds referred to in subsection (1) are —

- (a) that the insurance broker has not commenced business within 6 months after being registered;
- (b) that the insurance broker has ceased to carry on the business for which it is registered;
- (c) that, it appears to the Authority, the insurance broker has failed to satisfy any obligation to which it is subject by virtue of this Act;
- (d) that there exists a ground on which the Authority would be prohibited by section 35Y from registering the insurance broker;
- (e) that the insurance broker —
 - (i) proposes to make, or has made, any composition or arrangement with its creditors;
 - (ii) has gone into liquidation; or
 - (iii) has been wound up or dissolved;

- (f) that the insurance broker is carrying on its business in a manner likely to be detrimental to the interests of policy owners for whom it is acting as an agent;
- (g) that the insurance broker is unable to meet its obligations;
- (h) that the insurance broker has contravened any provision of this Act or any condition imposed or any direction given by the Authority under this Act;
- (i) that any of the officers of the insurance broker holding a managerial or executive position has been convicted of any offence under this Act;
- (j) that the insurance broker has furnished false, misleading or inaccurate information, or has concealed or failed to disclose material facts, in its application for registration; and
- (k) that it is in the public interest to cancel the registration.

[41/2001]

(3) Before cancelling the registration of an insurance broker under this section otherwise than at its request, the Authority shall —

- (a) give the insurance broker notice in writing of its intention to do so; and
- (b) in the notice referred to in paragraph (a), call upon the insurance broker to show cause within such time as may be specified in the notice why its registration should not be cancelled.

[41/2001]

(4) If the insurance broker to whom notice has been given under subsection (3) —

- (a) fails to show cause within the time given to it to do so or within such extended period of time as the Authority may allow; or
- (b) fails to show sufficient cause,

the Authority shall give notice in writing to the insurance broker of the date on which the cancellation of registration is to take effect.

[41/2001]

(5) Any insurance broker which is aggrieved by a decision of the Authority under subsection (1) to cancel its registration as an insurance broker otherwise than at its request may, within 30 days of the decision of the Authority, appeal to the Minister in writing in accordance with Part IIIB.

[41/2001]

(6) Notwithstanding the fact that the registration of an insurance broker has been cancelled under this section, so long as the insurance broker remains under any liability to an insurer, insured or intending insured, the insurance broker shall take such action as it considers necessary or as may be required by the Authority to ensure that reasonable provision has been or will be made for that liability.

[41/2001]

(7) If the registration of a person as an insurance broker has been cancelled or has expired, sections 35ZC and 36 shall, unless the Authority otherwise directs, continue to apply in relation to the person in respect of matters that occurred before the cancellation or expiration as if its registration had not been cancelled or had not expired, as the case may be.

[41/2001]

Duty to maintain net asset value

35ZC. Every registered insurance broker shall maintain a net asset value of such amount as may be prescribed.

[41/2001]

Insurance broking premium accounts

35ZD.—(1) Subject to subsection (2), every registered insurance broker which receives any money —

- (a) from or on behalf of an insured or intending insured for or on account of an insurer in connection with a contract of insurance or proposed contract of insurance; or
- (b) from or on behalf of an insurer for or on account of an insured or intending insured,

shall, for the purposes of this section, establish and maintain a separate account with a bank licensed under the Banking Act (Cap. 19).

[23/2003 wef 01/01/2004]

(2) Where the registered insurance broker is registered under section 35X to carry on business as more than one type of insurance broker, it shall establish and maintain separate accounts with a bank licensed under the Banking Act in respect of the carrying on of business of each type of insurance broker for which it is registered.

[41/2001]

(3) The Authority may prescribe, in relation to an account established under subsection (1) or (2) —

- (a) the types of moneys that must be paid into or withdrawn from such account;
- (b) the manner in which moneys should be paid into or withdrawn from such account;
- (c) the manner in which moneys held in such account are to be invested;
- (d) the manner in which the proceeds from the investment of moneys held in such account are to be distributed;
- (e) the rights and obligations of any party in relation to moneys held in such account; and
- (f) any other matter which the Authority considers to be incidental to or necessary for this section.

[41/2001]

(4) A lien or claim on the moneys in any account established by any registered insurance broker under subsection (1) or (2) shall be void unless the moneys in the account are for fees due and owing to the registered insurance broker.

[41/2001]

(5) A charge or mortgage on the moneys in any account established by any registered insurance broker under subsection (1) or (2) shall be void.

[41/2001]

(6) Any registered insurance broker which contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000.

[41/2001]

(7) In this section, “moneys” means any sum received by a registered insurance broker as agent for an insured or intending insured, including policy moneys, premiums and claims payments.

[41/2001]

Negotiation and placement of risk with unlicensed insurer

35ZE.—(1) Subject to sections 35ZF and 35ZG, no registered insurance broker shall, in the course of its business as such, negotiate any contract of insurance with an insurer (directly or indirectly) except with a licensed insurer acting in the course of its business as such.

[41/2001]

[Act 11 of 2013 wef 18/04/2013]

(2) The reference in subsection (1) to a contract of insurance shall not apply to —

- (a) reinsurance;
- (b) business relating to risks outside Singapore; or
- (c) such other risks as may be prescribed.

[41/2001]

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 3 years or to both.

[41/2001]

(4) In subsection (2), “risks outside Singapore” means any risk which would be classified as an offshore policy as defined in the First Schedule had the risk been underwritten by a licensed insurer in Singapore.

[41/2001]

[23/2003 wef 01/01/2004]

[Act 11 of 2013 wef 18/04/2013]

Permission to negotiate and place risk with unlicensed insurer

35ZF.—(1) Where in any particular case the Authority is satisfied that, by reason of the exceptional nature of the risk or other exceptional circumstances, it is not reasonably practicable to comply with section 35ZE, the Authority may permit any registered insurance broker —

- (a) to negotiate the contract of insurance with such insurer as the insurance broker sees fit; and
- (b) if in the opinion of the Authority the case requires it, to effect the contract of insurance and receive the premium in Singapore on behalf of such insurer.

[41/2001]

(2) Where the Authority has, under section 23(5) of the Insurance Intermediaries Act (Cap. 142A) in force before 1st October 2002, granted any registered insurance broker permission to negotiate with any unlicensed insurer as the insurance broker sees fit and, if the case requires it, to effect the contract of insurance and receive the premium in Singapore on behalf of the insurer, the permission shall continue in force as if granted by the Authority under subsection (1).

[41/2001]

[Act 11 of 2013 wef 18/04/2013]

Negotiation and placement of risk with foreign insurer

35ZG.—(1) Without prejudice to section 35ZF, a registered insurance broker may negotiate any contract of insurance referred to in section 35ZE with a foreign insurer under a foreign insurer scheme if he is authorised to do so under a licence issued by the Authority.

[41/2001]

[Act 11 of 2013 wef 18/04/2013]

(2) Any person who wishes to obtain a licence under subsection (1) shall apply to the Authority in such manner as the Authority may determine and furnish such information as the Authority may require.

[41/2001]

(3) In issuing a licence under subsection (1), the Authority may impose such conditions as it thinks fit and may at any time add to, vary or revoke such conditions.

[41/2001]

(4) The issue of a licence by the Authority under subsection (1) shall be subject to the payment of such annual fees as may be prescribed.

[41/2001]

(5) Section 35ZB shall apply, with the necessary modifications, in relation to the cancellation of a licence issued under subsection (1).

[41/2001]

(6) Where, immediately before 1st October 2002, a person has a licence under section 8 of the Insurance Intermediaries Act (Cap. 142A) in force before that date, he shall be deemed to have been issued, subject to the same terms and conditions but only in so far as they are not inconsistent with the provisions of this Act, with a licence under subsection (1) to negotiate contracts of insurance referred to in section 35ZE with such foreign insurers under any foreign insurer scheme as the Authority may determine.

[41/2001]

[Act 11 of 2013 wef 18/04/2013]

Restriction as to receipt and payment of remuneration

35ZH.—(1) An insurer shall not pay to a registered insurance broker, and a registered insurance broker shall not receive from an insurer, in respect of the arranging or effecting of contracts of insurance by the insurance broker with the insurer, remuneration at a rate or on a basis that has been varied, having regard solely to all or any of the following:

- (a) the number of contracts so arranged or effected;
- (b) the total amount of premiums paid or payable under such contracts;
- (c) the total amount of sums insured under such contracts.

[41/2001]

(2) Subsection (1) shall not apply to the receipt and payment of profit commissions.

[41/2001]

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[41/2001]

(4) This section shall not apply to general reinsurance brokers and life reinsurance brokers in respect of contracts for the reinsurance of liabilities under insurance policies.

[41/2001]

Control of take-over of insurance broker

35ZI.—(1) This section shall apply to and in relation to all individuals whether resident in Singapore or not and whether citizens of Singapore or not, and to all bodies corporate or unincorporate, whether incorporated or carrying on business in Singapore or not.

[41/2001]

(2) No person shall enter into an agreement to acquire shares of a registered insurance broker by virtue of which he would, if the agreement is carried out, obtain effective control of that insurance broker without first notifying the Authority of his intention to enter into the agreement and obtaining the approval of the Authority to his entering into the agreement.

[41/2001]

(3) For the purposes of this section —

- (a) a person shall be regarded as obtaining effective control of a registered insurance broker by virtue of an agreement if the person alone or acting together with any associate or associates would, if the agreement is carried out —
 - (i) acquire or hold, directly or indirectly, 20% or more of the issued share capital of the insurance broker; or
 - (ii) control, directly or indirectly, 20% or more of the voting power of the insurance broker;
- (b) a reference to entering into an agreement to acquire shares includes —
 - (i) a reference to a person making or publishing a statement, however expressed, that expressly or impliedly invites a holder of shares to offer to dispose of his shares to the first person; and
 - (ii) a reference to a person obtaining a right to acquire shares under an option, or to have shares transferred to himself or to his order, whether the right is exercisable presently or in the future and whether on fulfilment of a condition or not;

- (c) a reference to the voting power in a registered insurance broker is a reference to the total number of votes that might be cast in the general meeting of the insurance broker; and
- (d) a person, *A*, is an associate of another person, *B*, if —
- (i) *A* is the spouse or a parent or remoter lineal ancestor, or a son, daughter or remoter issue, or a brother or sister, of *B*;
 - (ii) *A* is a partner of *B*;
 - (iii) *A* is a corporation of which *B* is an officer;
 - (iv) where *B* is a corporation, *A* is an officer of *B*;
 - (v) *A* is an employee or employer of *B*;
 - (vi) *A* is an officer of any corporation of which *B* is an officer;
 - (vii) *A* is an employee of an individual of whom *B* is an employee;
 - (viii) *A* is a corporation whose directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B* or, where *B* is a corporation, of the directors of *B*;
 - (ix) *B* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *A* or the directors of *A*, where *A* is a corporation;
 - (x) *A* is a corporation in which *B* is in a position to control not less than 20% of the voting power in *A*; or
 - (xi) where *B* is a corporation, *A* is a person who is in a position to control not less than 20% of the voting power in *B*.

[41/2001]

(4) Any person who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding

\$25,000 or to imprisonment for a term not exceeding 2 years or to both.

[41/2001]

Approval or removal of chief executive officer and director of insurance broker

35ZJ.—(1) No registered insurance broker shall appoint a person as its chief executive officer or director in Singapore unless it has obtained the approval of the Authority.

[41/2001]

(1A) Where a registered insurance broker has obtained the approval of the Authority to appoint a person as its chief executive officer or director under subsection (1), the person may be re-appointed as chief executive officer or director, as the case may be, of the registered insurance broker immediately upon the expiry of the earlier term without the approval of the Authority.

[23/2003 wef 01/01/2004]

(2) If at any time it appears to the Authority that a chief executive officer or director of a registered insurance broker has failed to perform his functions or is no longer a fit and proper person to be so appointed, the Authority may, in writing, direct the insurance broker to remove the chief executive officer or director, as the case may be.

[41/2001]

[23/2003 wef 01/01/2004]

(3) For the purpose of determining whether to grant its approval under subsection (1) or whether the chief executive officer or director has failed to perform his functions under subsection (2), the Authority shall, without prejudice to any other matter that it may consider relevant, have regard to such criteria as may be prescribed.

[41/2001]

(4) Before directing the registered insurance broker to remove its chief executive officer or any director under subsection (2), the Authority shall —

- (a) give the registered insurance broker notice in writing of its intention to do so; and
- (b) in the notice referred to in paragraph (a), call upon the registered insurance broker to show cause within such time

as may be specified in the notice why the chief executive officer or director, as the case may be, should not be removed.

[41/2001]

(5) If the registered insurance broker referred to in subsection (4) —

(a) fails to show cause within the time given to it to do so or within such extended period of time as the Authority may allow; or

(b) fails to show sufficient cause,

the Authority shall give notice in writing to the insurance broker of the date on which the direction to remove the chief executive officer or director, as the case may be, is to take effect.

[41/2001]

(6) Any person who is aggrieved by a decision of the Authority under subsection (1) or (2) may, within 30 days of the decision of the Authority, appeal to the Minister in writing in accordance with Part IIIB.

[41/2001]

(7) Any registered insurance broker which fails to comply with any direction of the Authority under subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000.

[41/2001]

(8) Any approval by the Authority for a registered insurance broker to appoint a person as its chief executive officer or director in Singapore under section 26 of the Insurance Intermediaries Act (Cap. 142A) in force before 1st October 2002 shall continue in force as if approved by the Authority under subsection (1).

[41/2001]

(9) Nothing in section 152 of the Companies Act (Cap. 50) shall prevent the Authority from exercising any power under subsection (2).

[41/2001]

(10) In this section, “chief executive officer” means any person by whatever name described, who is —

- (a) in the direct employment of, or acting for, or by arrangement with a registered insurance broker; and
- (b) directly responsible for the conduct of any type of business of the insurance broker in Singapore.

[41/2001]

Restriction on granting of unsecured loans or advances to director and employee of or adviser engaged by registered insurance broker

35ZK.—(1) Without prejudice to section 162 of the Companies Act, no registered insurance broker shall, on or after 1st October 2002, in respect of its business in Singapore, grant, directly or indirectly, any unsecured loan or unsecured advance —

- (a) to a director of the insurance broker, other than a director who is its employee; or
- (b) to an employee of the insurance broker, including a director who is its employee, or a person engaged by the insurance broker to provide technical advice to clients, which in the aggregate and outstanding at any one time exceeds the sum of \$3,000.

[41/2001]

(2) No registered insurance broker shall, on or after 1st October 2002 —

- (a) increase the amount of any unsecured loan or unsecured advance granted to any person referred to in subsection (1)(a) before that date; or
- (b) increase the amount of any unsecured loan or unsecured advance granted to any person referred to in subsection (1)(b) before that date if the total amount granted to that person will exceed the sum stated in that subsection.

[41/2001]

(3) Any registered insurance broker which contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$12,500 and, in the case of a continuing offence, to a further fine not exceeding \$1,250 for every

day or part thereof during which the offence continues after conviction.

[41/2001]

(4) In this section, “director” includes the spouse, father, step-father, mother, step-mother, son, step-son, daughter, step-daughter, brother or sister of a director.

[41/2001]

Holding out as registered insurance broker

35ZL.—(1) No person shall hold himself out to be registered as a direct insurance broker, general reinsurance broker or life reinsurance broker unless he is registered under this Act as such.

[23/2003 wef 01/01/2004]

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[41/2001]

Use of words “insurance broking”

35ZM.—(1) No person, other than a registered insurance broker or an insurance broker who is exempt from registration under section 35ZN(1)(a), (b), (c), (d), (e) or (ea), shall —

- (a) use the words “insurance broking” or any of its derivatives in any language, or any other word indicating that that person carries on business as an insurance broker in the name, description or title under which it carries on business in Singapore; or
- (b) make any representation to such effect in any bill head, letter paper, notice, advertisement, publication or writing, including in electronic form, or in any other manner.

[41/2001]

(2) Nothing in this section shall prohibit an association of insurance brokers from using the words “insurance broking” or any of its

derivatives in any language as part of its name or description of its activities, subject to the Authority's prior written approval.

[41/2001]

(3) Nothing in this section shall apply to the use of the words "life insurance broking" or any of its derivatives.

[41/2001]

(4) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$12,500 and, in the case of a continuing offence, to a further fine not exceeding \$1,250 for every day or part thereof during which the offence continues after conviction.

[41/2001]

(5) Any association of insurance brokers that, immediately before 1st October 2002, had been using the words "insurance broking" or any of its derivatives in any language, in any bill head, letter paper, notice, advertisement, publication or writing or in any other manner, shall be deemed to have been granted approval under subsection (1) to use such words in the same manner.

[41/2001]

Exempt insurance brokers

35ZN.—(1) The following persons (referred to in this section as exempt insurance brokers) shall be exempt from registration as insurance brokers:

- (a) a bank licensed under the Banking Act (Cap. 19);
- (b) a merchant bank approved as a financial institution and approved to carry on business as an insurance broker under the Monetary Authority of Singapore Act (Cap. 186);
- (c) a licensed financial adviser under the Financial Advisers Act (Cap. 110);
- (d) a holder of a capital markets services licence under the Securities and Futures Act (Cap. 289);
- (e) a finance company which has been granted an exemption from section 25(2) of the Finance Companies Act (Cap. 108) to carry on business as an insurance broker;

(*ea*) a direct insurer licensed to carry on life business; and
[23/2003 wef 01/01/2004]
[Act 11 of 2013 wef 18/04/2013]

(*f*) such other persons or class of persons as may be prescribed,
subject to such conditions as the Authority may impose.
[41/2001]

(2) Subject to this Act, sections 35ZD, 35ZE, 35ZF and 35ZH shall, with the necessary modifications, apply to the persons referred to in subsection (1) (other than persons referred to in subsection (1)(*f*)) in respect of their business as insurance brokers as if they are registered insurance brokers.

[41/2001]

(2A) For the avoidance of doubt, references in subsection (2) to specific sections in this Act that apply to the persons referred to in that subsection do not include references to any regulations made under those sections unless the Authority prescribes that such regulations so apply.

[23/2003 wef 01/01/2004]

(3) The Authority may prescribe or specify in directions the provisions of this Act that apply to the persons referred to in subsection (1)(*f*).

[41/2001]

(4) The Authority may by written directions impose such conditions or restrictions as it deems fit on an exempt insurance broker or a class of exempt insurance brokers.

[41/2001]

(5) The Authority may withdraw an exemption granted to any person under this section if the person contravenes any provision of this Act applicable to him or if the Authority considers it necessary in the public interest.

[41/2001]

(6) A withdrawal of an exemption under subsection (5) shall not operate so as to —

(*a*) avoid or affect any agreement, transaction or arrangement, relating to any contract of insurance entered into by the person, whether the agreement, transaction or arrangement

was entered into before or after the withdrawal of the exemption; or

- (b) affect any right, obligation or liability arising under any agreement, transaction or arrangement referred to in paragraph (a).

[41/2001]

(7) Any exempt insurance broker who is aggrieved by a decision of the Authority to withdraw the exemption under subsection (5) may, within 30 days of the decision, appeal in writing to the Minister in accordance with Part IIIB.

[41/2001]

(8) Any exempt insurance broker who contravenes any condition or restriction imposed by the Authority under subsection (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$12,500 and, in the case of a continuing offence, to a further fine not exceeding \$1,250 for every day or part thereof during which the offence continues after conviction.

[41/2001]

Registers maintained by Authority

35ZO.—(1) The Authority shall establish and maintain one or more registers in respect of the following persons:

- (a) registered insurance brokers;
- (b) persons removed by registered insurance brokers as directed by the Authority in exercise of its powers under section 35ZJ;
- (c) persons against whom a prohibition order is made under section 35V; and
- (d) such other persons as may be prescribed.

[41/2001]

(2) The Authority may prescribe the manner in which the registers are established or maintained, including the details or particulars required to be entered in the registers.

[41/2001]

(3) Any person may, upon payment of the prescribed fee, inspect and take an extract from the registers established under subsection (1),

and any such extract, certified by the Authority to be a true copy, shall be admissible as evidence in any legal proceedings.

[41/2001]

PART III

RETURNS, INSPECTIONS AND INVESTIGATIONS, WINDING UP AND TRANSFERS OF BUSINESS

[Act 11 of 2013 wef 18/04/2013]

Division 1 — Returns

Annual account and audit, etc.

36.—(1) A registered insurance broker shall prepare such statements of account and other statements and in such form and manner as may be prescribed and lodge them with the Authority.

[11/86; 41/2001]

[Act 11 of 2013 wef 18/04/2013]

(2) A licensed insurer or registered insurance broker shall —

(a) cause to be kept in Singapore such books and records as will sufficiently explain the transactions and financial position of the insurer or insurance broker, as the case may be, in Singapore and enable the insurer or insurance broker to comply with the requirements of this section and, in the case of the insurer, section 37; and

(b) cause those books and records to be kept in such manner as to enable them to be conveniently and properly audited.

[41/2001]

[Act 11 of 2013 wef 18/04/2013]

(3) A licensed insurer or an authorised reinsurer shall prepare and lodge with the Authority such statements of accounts and other statements relating to its business and in such form and manner as may be prescribed or specified in directions by the Authority.

[Act 11 of 2013 wef 18/04/2013]

(3A) For the purposes of subsection (3) —

(a) a licensed insurer shall have such statements of accounts or part thereof audited by an auditor who satisfies

subsection (6), in such form and manner as the Authority may prescribe or specify in directions; and

- (b) notwithstanding the provisions of the Companies Act (Cap. 50) or the Co-operative Societies Act (Cap. 62), as the case may be, every licensed insurer, other than a captive insurer and a marine mutual insurer, shall appoint an auditor annually.

[Act 11 of 2013 wef 18/04/2013]

(4) A registered insurance broker shall have its accounts audited for each financial year for which statements of accounts and other statements are prepared in accordance with regulations prescribed under subsection (1).

[41/2001]

(5) A registered insurance broker shall appoint an auditor to carry out an audit of its accounts and other statements prepared in accordance with subsection (1) and where, for any reason, the auditor ceases to act for the registered insurance broker, the registered insurance broker shall, as soon as practicable thereafter, appoint another auditor.

[41/2001]

(6) No person shall act as auditor for any licensed insurer or registered insurance broker unless —

- (a) he has a place of business in Singapore;
- (b) he is approved under section 10 of the Companies Act (Cap. 50) as a company auditor for the purposes of that Act; and
- (c) in the case of a licensed insurer, the licensed insurer has obtained the approval of the Authority to appoint that person as an auditor.

[41/2001]

[Act 11 of 2013 wef 18/04/2013]

(7) An auditor shall not be approved by the Authority as an auditor for a licensed insurer unless he is able to comply with such conditions in relation to the discharge of his duties as may be determined by the Authority.

[Act 11 of 2013 wef 18/04/2013]

(8) Notwithstanding any other provision of this Act or the provisions of the Companies Act (Cap. 50), the Authority may, if it is not satisfied with the performance of duties by an auditor appointed by a licensed insurer or registered insurance broker —

- (a) at any time direct the licensed insurer or registered insurance broker to remove the auditor; and
- (b) direct the licensed insurer or registered insurance broker, as soon as practicable thereafter, to appoint another auditor,

and the licensed insurer or registered insurance broker, shall comply with such direction.

[41/2001]

[Act 11 of 2013 wef 18/04/2013]

(9) The Authority may impose all or any of the following duties on an auditor:

- (a) a duty to submit such additional information in relation to his audit as the Authority considers necessary;
- (b) a duty to enlarge or extend the scope of his audit of the business and affairs of the licensed insurer or registered insurance broker, as the case may be;
- (c) a duty to carry out any other examination or establish any procedure in any particular case;
- (d) a duty to submit a report on any of the matters referred to in paragraphs (b) and (c),

and the licensed insurer or registered insurance broker, as the case may be, shall remunerate the auditor in respect of the discharge by him of all or any of these duties.

[41/2001]

[Act 11 of 2013 wef 18/04/2013]

(10) An auditor's report made under subsection (9) shall be lodged by the insurer with the Authority together with the statements of accounts lodged under subsection (3).

[41/2001]

[23/2003 wef 01/01/2004]

[Act 11 of 2013 wef 18/04/2013]

(11) If an auditor, in the course of the performance of his duties as an auditor of a licensed insurer or registered insurance broker, is satisfied that —

- (a) there has been a serious contravention of any provision of this Act or that an offence involving fraud or dishonesty has been committed;
- (b) serious irregularities have occurred, including irregularities that jeopardise the interests of policy owners;
- (c) in the case of a licensed insurer —
 - (i) where the insurer is incorporated or established in Singapore, the insurer is unable to meet its obligations; or
 - (ii) any transaction or dispute has taken place which will have a material effect on the solvency of any insurance fund established by the insurer under this Act; or
- (d) in the case of a registered insurance broker, the insurance broker is unable to meet its obligations,

the auditor shall immediately report the matter in writing to the Authority.

[41/2001]

[Act 11 of 2013 wef 18/04/2013]

(12) In the case of a company incorporated or established outside Singapore, the audit required by subsection (3A) need not extend beyond the business for which an insurance fund is maintained under this Act.

[Act 11 of 2013 wef 18/04/2013]

(13) The Authority may, from time to time and in such form or manner as it considers appropriate, publish any information obtained or received by the Authority under this section or section 37.

[Act 11 of 2013 wef 18/04/2013]

Actuarial investigations and reports as to insurance business

37.—(1) A licensed insurer shall, for each accounting period —

- (a) have an investigation made, by an actuary appointed with the approval of the Authority under section 31, into the financial condition of each class of business that it carries on; and
- (b) lodge with the Authority such reports of the investigation referred to in paragraph (a), in such form and manner as may be prescribed or specified in directions by the Authority.

[Act 11 of 2013 wef 18/04/2013]

(2) *[Deleted by Act 11 of 2013 wef 18/04/2013]*

(3) *[Deleted by Act 11 of 2013 wef 18/04/2013]*

(4) *[Deleted by Act 11 of 2013 wef 18/04/2013]*

(5) *[Deleted by Act 11 of 2013 wef 18/04/2013]*

(6) *[Deleted by Act 11 of 2013 wef 18/04/2013]*

(7) *[Deleted by Act 23/2003 wef 01/01/2004]*

(8) In the case of a company incorporated or established outside Singapore, the investigation required by subsection (1) need not extend beyond the business for which an insurance fund is maintained under this Act.

(9) If the company referred to in subsection (8) is required by the law relating to insurance in the country in which it is incorporated or established to furnish the authority having the administration of that law with returns as to actuarial investigations of its insurance business, the documents to be lodged with the Authority under this section shall be accompanied by certified copies of any such returns made since the company was first licensed under this Act in respect of insurance business, other than returns of which copies have previously been furnished under this subsection.

[11/86; 41/2001]

[Act 11 of 2013 wef 18/04/2013]

(10) References in this Act to documents lodged with the Authority shall not be taken to include documents required by subsection (9) to accompany documents so lodged.

(11) Where a licensed insurer —

(a) has an actuarial investigation made into its insurance business for which it maintains an insurance fund under this Act (whether with or without any other insurance business carried on by it); and

(b) the investigation is not made to comply with subsection (1) or with any provision as to returns in the law relating to insurance in a country outside Singapore, but the results of the investigation are made public,

then the insurer shall, as to the lodging of documents with the Authority, comply with the requirements of subsection (1) as in the case of an investigation made under that subsection.

[41/2001]

[Act 11 of 2013 wef 18/04/2013]

Power to require returns under section 36 or 37 to be rectified

38.—(1) If it appears to the Authority that any document lodged in accordance with section 36 or 37 —

(a) is, in any particular, unsatisfactory, incomplete, inaccurate or misleading; or

(b) does not comply with the requirements of this Act,

the Authority may, by notice in writing, require such explanations as it may consider necessary to be made by or on behalf of the insurer within such time (not being less than 14 days) as is specified in the notice.

[11/86]

(2) The Authority may, after considering the explanations referred to in subsection (1), or if such explanations have not been given by or on behalf of the insurer within the time specified in that subsection, reject the document or give such directions as it may think necessary

for its variation within such time (not being less than one month) as is specified in the directions.

[11/86]

(3) Directions given under subsection (2) with respect to any document may require such consequential variations of any other document lodged by the insurer under section 36 or 37 as may be specified in the directions.

(4) Where directions are given under subsection (2), any document to which they relate shall be deemed not to have been lodged until it is re-submitted with the variations required by the directions, but the insurer shall be deemed to have submitted the document within the time limited by regulations prescribed or directions issued under section 36(3) if it is re-submitted with the required variations within the time limited by the directions.

[11/86]

[Act 11 of 2013 wef 18/04/2013]

Additional provisions as to returns under section 36 or 37

39.—(1) Any member or policy owner of an insurer shall have a right, on applying to the insurer, to be sent by the insurer at an address supplied by him copies of documents lodged by the insurer to comply with section 36 or 37, and to have the copies despatched not later than 14 days after the insurer receives the application.

[11/86]

(2) The right referred to in subsection (1) shall not extend to any document excepted from this provision by regulations prescribed or directions issued under section 36(3), or to a document of any other description except the last lodged of that description.

[11/86]

[Act 11 of 2013 wef 18/04/2013]

(3) Any person shall have the right, on payment of the prescribed fee, at any time during working hours of the office of the Authority, to inspect at that office any document lodged by an insurer to comply with section 36 or 37 and any document required by that section to accompany the document so lodged and make a copy of the whole or any part of it.

[11/86]

[Act 11 of 2013 wef 18/04/2013]

(4) The right referred to in subsection (3) shall not extend to any document excepted from this provision by regulations prescribed or directions issued under section 36(3), or to documents of any other description lodged more than 10 years previously.

[11/86]

[Act 11 of 2013 wef 18/04/2013]

(5) In any proceedings, a certificate signed by any person appointed by the Authority under section 50 that a document is one lodged by an insurer to comply with section 36 or 37, or one that accompanied documents so lodged, shall be admissible as evidence of the facts certified.

[11/86]

(6) Any person who contravenes section 36 or 37 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

[41/2001]

[Act 11 of 2013 wef 18/04/2013]

Division 2 — Inspections and Investigations

Inspection by Authority

40.—(1) The Authority may, from time to time, inspect under conditions of secrecy, the books, accounts, records and other documents, whether in electronic, print or other form, of —

- (a) a licensed insurer;
- (b) any branch or subsidiary outside Singapore of a licensed insurer established or incorporated in Singapore; or
- (c) an insurance intermediary.

[Act 11 of 2013 wef 18/04/2013]

(2) For the purpose of an inspection under this section, a licensed insurer or insurance intermediary referred to in subsection (1) shall —

- (a) produce his books, accounts, records and other documents, whether in electronic, print or other form, to the Authority

and give such information and facilities as may be required by the Authority to conduct the inspection; and

- (b) procure that any person who is in possession of such books, accounts, records and other documents referred to in paragraph (a) shall produce such books, accounts, records and other documents and give such information and facilities as may be required by the Authority.

[41/2001]

[Act 11 of 2013 wef 18/04/2013]

(3) The Authority may make copies of, or take possession of, any of the books, accounts, records and other documents, whether in electronic, print or other form, of a licensed insurer or an insurance intermediary.

[41/2001]

[Act 11 of 2013 wef 18/04/2013]

(4) [Deleted by Act 11 of 2013 wef 18/04/2013]

(5) Any person who fails, without reasonable excuse, to produce any book, account, record or other document or furnish any information or facilities in accordance with subsection (2) shall be guilty of an offence and shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction; or

- (b) in any other case, to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

[Act 11 of 2013 wef 18/04/2013]

Investigation by Authority

40A.—(1) The Authority may conduct such investigation as it considers necessary or expedient for all or any of the following purposes:

- (a) to perform any of the Authority's functions and duties under this Act;
- (b) to determine the truth or otherwise of an alleged or suspected contravention of any provision of this Act or any direction issued under this Act.

[41/2001]

(2) For the purposes of subsection (1), the Authority may, in writing, require any person named therein to provide information or to produce books, accounts, records and other documents, whether in electronic, print or other form, relating to any matter under investigation, and such person shall immediately comply with that requirement.

[41/2001]

(3) Nothing in this Part shall —

- (a) compel an advocate and solicitor, or a legal counsel referred to in section 128A of the Evidence Act (Cap. 97), to disclose or produce a privileged communication, or a document or other material containing a privileged communication, made by or to him in that capacity; or
- (b) authorise the taking of any such document or other material which is in his possession.

[23/2003 wef 01/01/2004]

[Act 11 of 2013 wef 18/04/2013]

(4) If an advocate and solicitor, or a legal counsel referred to in section 128A of the Evidence Act (Cap. 97), refuses to disclose the information or produce the document or other material referred to in subsection (3), he shall nevertheless be obliged to give the name and address (if he knows them) of the person to whom, or by or on behalf of whom, that communication was made.

[41/2001]

[23/2003 wef 01/01/2004]

[Act 11 of 2013 wef 18/04/2013]

(5) Any person who fails, without reasonable excuse, to comply with subsection (2) or (4) shall be guilty of an offence and shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to

both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction; or

- (b) in any other case, to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

[Act 11 of 2013 wef 18/04/2013]

Inspection in Singapore by parent supervisory authority

40B.—(1) In relation to a licensed insurer incorporated outside Singapore or a foreign-owned licensed insurer incorporated in Singapore, a parent supervisory authority may, with the prior written approval of the Authority and under conditions of secrecy, conduct an inspection in Singapore of the books of the licensed insurer in Singapore in accordance with this section, if the following conditions are satisfied:

- (a) the inspection is required by the parent supervisory authority for the sole purpose of carrying out its supervisory functions;
- (b) the parent supervisory authority —
- (i) is prohibited by the laws applicable to the parent supervisory authority from disclosing information obtained by it in the course of the inspection to any other person; or
 - (ii) has given to the Authority such written undertaking as to the confidentiality of the information obtained, as the Authority may determine; and
- (c) the parent supervisory authority has given a written undertaking to the Authority to comply with the provisions of this Act and such conditions as the Authority may impose under subsection (2).

(2) The Authority may at any time, whether before, on or after giving written approval for an inspection under this section, require

the parent supervisory authority to comply with conditions relating to —

- (a) the classes of information to which the parent supervisory authority shall or shall not have access in the course of the inspection;
- (b) the conduct of the inspection;
- (c) the use or disclosure of any information obtained in the course of the inspection; and
- (d) such other matters as the Authority may determine.

(3) Subject to compliance by a parent supervisory authority with such conditions as the Authority may impose under subsection (2), a licensed insurer under inspection —

- (a) shall afford the parent supervisory authority access to such books of the licensed insurer under inspection, and provide such information (including information relating to the licensed insurer's internal control systems) and facilities as may be required to conduct the inspection; and
- (b) shall not be required to afford the parent supervisory authority access to its books or to provide information or facilities at such times or at such places as would unduly interfere with the proper conduct of the normal daily business of the licensed insurer under inspection.

(4) A parent supervisory authority may, with the prior written approval of the Authority, appoint any person to conduct the inspection under subsection (1), and in such event, this section (other than this subsection) shall apply to the person as if a reference to the parent supervisory authority or any official of the parent supervisory authority in this section includes a reference to the person.

(5) Any licensed insurer which refuses or neglects, without reasonable excuse, to afford access to any book or provide any information or facility as may be required by this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a

further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

(6) In this section and section 40C, unless the context otherwise requires —

“foreign-owned”, in relation to a licensed insurer incorporated in Singapore, means a licensed insurer whose parent is incorporated, formed or established in a foreign country;

“parent”, in relation to a licensed insurer, means a financial institution which is able to exercise a significant influence over the direction and management of the licensed insurer or which has a controlling interest in the licensed insurer;

“parent supervisory authority” —

(a) in relation to a licensed insurer incorporated outside Singapore, means the supervisory authority which is responsible, under the laws of the country or territory where the licensed insurer or its parent is incorporated, formed or established, for supervising the licensed insurer or its parent, as the case may be; or

(b) in relation to a foreign-owned licensed insurer incorporated in Singapore, means the supervisory authority which has consolidated supervision authority over the licensed insurer.

[Act 11 of 2013 wef 18/04/2013]

Confidentiality of inspection and investigation reports produced in respect of licensed insurer

40C.—(1) Where a written report or any part thereof (referred to in this section as the report) has been produced in respect of any licensed insurer in Singapore —

(a) by the Authority upon an inspection under section 40 or an investigation under section 40A; or

(b) by a parent supervisory authority upon an inspection under section 40B,

the report shall not be disclosed by the licensed insurer, or any officer or auditor of the licensed insurer, to any other person except in the circumstances provided under subsection (2).

(2) Disclosure of the report referred to in subsection (1) may be made —

- (a) by the licensed insurer in Singapore to any officer or auditor of that licensed insurer, solely in connection with the performance of the duties of the officer or auditor, as the case may be, in that licensed insurer;
- (b) by any officer or auditor of the licensed insurer in Singapore to any other officer or auditor of that licensed insurer, solely in connection with the performance of their duties in that licensed insurer;
- (c) to the Authority, if requested by the Authority, where the report has been produced by a parent supervisory authority; or
- (d) to such other person as the Authority may approve in writing.

(3) In granting written approval for any disclosure under subsection (2)(d), the Authority may impose such conditions as it considers appropriate.

(4) The obligation on an officer or auditor of a licensed insurer referred to in subsection (1) shall continue after the termination or cessation of his employment or appointment at the licensed insurer.

(5) Any person who contravenes subsection (1) or fails to comply with any condition imposed by the Authority under subsection (3) shall be guilty of an offence and shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both; or
- (b) in any other case, to a fine not exceeding \$250,000.

(6) Any person to whom the report is disclosed and who knows or has reasonable grounds for believing, at the time of the disclosure, that

the report was disclosed to him in contravention of subsection (1) shall be guilty of an offence, unless he proves that —

- (a) the disclosure was made contrary to his desire;
- (b) where the disclosure was made in any written form, he has as soon as practicable surrendered or taken all reasonable steps to surrender the report and all copies thereof to the Authority; and
- (c) where the disclosure was made in an electronic form, he has as soon as practicable taken all reasonable steps to ensure that all electronic copies of the report have been deleted, and that the report and all copies thereof in other forms have been surrendered to the Authority.

(7) In this section, unless the context otherwise requires, “officer”, in relation to a licensed insurer, includes —

- (a) a director, a secretary or an employee of the insurer;
- (b) a receiver or manager of any part of the undertaking of the insurer appointed under a power contained in any instrument; and
- (c) the liquidator of the insurer appointed in a voluntary winding up.

[Act 11 of 2013 wef 18/04/2013]

Division 3 — Powers where licensed insurer or insurance intermediary is unable to meet obligations, etc.

[Act 11 of 2013 wef 18/04/2013]

Action by Authority if relevant person unable to meet obligations, etc.

41.—(1) The Authority may exercise one or more of the powers specified in subsection (2) as appears to it to be necessary where —

- (a) the Authority is satisfied that —
 - (i) the affairs of any relevant person are being conducted in a manner which is likely to be detrimental to the

public interest or the interest of the policy owners or prejudicial to the interest of the relevant person;

- (ii) a relevant person is or is likely to become insolvent, or that it is or is likely to become unable to meet its obligations, or that it is about to suspend payments;
 - (iii) a relevant person has contravened any of the provisions of this Act; or
 - (iv) a relevant person has failed to comply with any conditions attached to its registration (if any), or licence, as the case may be;
- (b) a relevant person informs the Authority that it is or is likely to become insolvent, or that it is or is likely to become unable to meet its obligations, or that it has suspended or is about to suspend payments;
- (c) a relevant person becomes unable to meet its obligations, or is insolvent, or suspends payments; or
- (d) the Authority considers it in the public interest to do so.

[Act 11 of 2013 wef 18/04/2013]

(2) The Authority may exercise all or any of the following powers for the purposes of subsection (1):

- (a) issue such directions to require the relevant person to take any action or to do or not to do any act or thing whatsoever in relation to its business as the Authority may consider necessary, including —
- (i) recruiting such management personnel as may be necessary to enable it to conduct its business in accordance with sound insurance principles;
 - (ii) removing any of its directors or any person whom the Authority considers unfit to be associated with it;
 - (iii) taking action as to the disposition or recovery of its property;
 - (iv) taking any available steps for the recovery by the relevant person, as the case may be, of sums

appearing to the Authority to have been illegally or improperly paid;

- (v) in the case of a licensed insurer, stopping the renewal or issuance of further policies of the class of business which the insurer is carrying on;
 - (vi) making such arrangements with respect to reinsurance as the Authority so specifies; or
 - (vii) taking action to make good any default under section 16, 17, 18, 19, 20, 35ZC or 35ZD;
- (b) subject to subsection (3), assume control of and manage such of the business of a licensed insurer as the Authority may determine, or appoint one or more persons as statutory manager to do so on such terms and conditions as the Authority may specify.

[Act 11 of 2013 wef 18/04/2013]

(3) In the case of a licensed insurer incorporated outside Singapore, any appointment of a statutory manager or any assumption of control by the Authority of any business of the licensed insurer under subsection (2) shall only be in relation to —

- (a) the business and affairs of the licensed insurer carried on, or managed in or from, Singapore; and
- (b) the property of the licensed insurer located in Singapore, or reflected in the books of the licensed insurer in Singapore, as the case may be, in relation to its operations in Singapore.

[Act 11 of 2013 wef 18/04/2013]

(4) Where the Authority appoints 2 or more persons as the statutory manager of a licensed insurer, it shall specify, in the terms and conditions of the appointment, which of the duties, functions and powers of the statutory manager —

- (a) may be discharged or exercised by such persons jointly and severally;
- (b) shall be discharged or exercised by such persons jointly; and

- (c) shall be discharged or exercised by a specified person or such persons.

[Act 11 of 2013 wef 18/04/2013]

(5) Where the Authority has exercised any power under subsection (2), it may, at any time and without prejudice to its power under section 12(2)(l), do one or more of the following:

- (a) vary or revoke any requirement of any appointment made by or any action taken by the Authority in the exercise of such power, on such terms and conditions as it may specify;
- (b) further exercise any of the powers under subsection (2);
- (c) add to, vary or revoke any term or condition specified by the Authority under this section.

(6) No liability shall be incurred by a statutory manager as a result of anything done (including any statement made) or omitted to be done with reasonable care and in good faith in the course of or in connection with —

- (a) the exercise or purported exercise of any power under this Act;
- (b) the performance or purported performance of any function or duty under this Act; or
- (c) the compliance or purported compliance with this Act.

(7) Any relevant person who fails to comply with any direction of the Authority under this section shall be guilty of an offence and shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction; or
- (b) in any other case, to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not

exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

[Act 11 of 2013 wef 18/04/2013]

[16/2011 wef 01/05/2011]

Effect of assumption of control under section 41

41A.—(1) Upon assuming control of the relevant business of a licensed insurer, the Authority or statutory manager, as the case may be, shall take custody or control of the relevant business.

[Act 11 of 2013 wef 18/04/2013]

(2) During the period when the Authority or statutory manager is in control of the relevant business of a licensed insurer, the Authority or statutory manager shall manage the relevant business of the licensed insurer in the name of and on behalf of the insurer and shall be deemed to be an agent of the insurer.

[Act 11 of 2013 wef 18/04/2013]

(3) In managing the relevant business of a licensed insurer, the Authority or statutory manager —

- (a) shall take into consideration the interests of the policy owners of the licensed insurer; and
- (b) shall have all the duties, powers and functions of the members of the board of directors of the licensed insurer (collectively and individually) under this Act, the Companies Act (Cap. 50) and the constitution of the licensed insurer, including powers of delegation, in relation to the relevant business of the licensed insurer; but nothing in this paragraph shall require the Authority or the statutory manager to call any meeting of the licensed insurer under the Companies Act, the Co-operative Societies Act (Cap. 62) or the constitution of the licensed insurer.

[Act 11 of 2013 wef 18/04/2013]

(4) Notwithstanding any written law or rule of law, upon the assumption of control of the relevant business of a licensed insurer by the Authority or statutory manager —

- (a) where the licensed insurer is established or incorporated in Singapore, any appointment of a person as a chief executive or director of the licensed insurer; or

- (b) where the licensed insurer is established or incorporated outside Singapore, any appointment of a person as a chief executive of the insurer in so far as the appointment relates to the relevant business of the licensed insurer,

which was in force immediately before the assumption of control, shall be deemed to be revoked unless the Authority gives its approval, by notice in writing to the person and the licensed insurer, for the person to remain in the appointment.

[Act 11 of 2013 wef 18/04/2013]

(5) Notwithstanding any written law or rule of law, during the period when the Authority or statutory manager is in control of the relevant business of a licensed insurer, no person shall be appointed —

- (a) where the licensed insurer is established or incorporated in Singapore, as a chief executive or director of the licensed insurer; or
- (b) where the licensed insurer is established or incorporated outside Singapore, as a chief executive of the licensed insurer, in so far as the appointment relates to the relevant business of the licensed insurer,

except with the approval of the Authority.

[Act 11 of 2013 wef 18/04/2013]

(6) Where the Authority has given its approval under subsection (4) or (5) for a person to remain in the appointment of, or for a person to be appointed as, a chief executive or a director of a licensed insurer, the Authority may at any time, by notice in writing to the person and the licensed insurer, revoke its approval and such appointment shall be deemed to be revoked on the date specified in the notice.

[Act 11 of 2013 wef 18/04/2013]

(7) Notwithstanding any written law or rule of law, if any person, whose appointment as a chief executive or director of a licensed insurer is revoked under subsection (4) or (6), acts or purports to act after the revocation —

- (a) where the licensed insurer is established or incorporated in Singapore, as a chief executive or director of the insurer; or

- (b) where the licensed insurer is established or incorporated outside Singapore, as a chief executive of the licensed insurer in relation to the relevant business of the insurer,

during the period when the Authority or statutory manager is in control of the relevant business of the licensed insurer —

- (i) the act or purported act of the person shall be invalid and of no effect; and
- (ii) the person shall be guilty of an offence.

[Act 11 of 2013 wef 18/04/2013]

(8) Notwithstanding any written law or rule of law, if any person who is appointed as a chief executive or director of a licensed insurer in contravention of subsection (5) acts or purports to act —

- (a) where the licensed insurer is established or incorporated in Singapore, as a chief executive or director of the licensed insurer; or
- (b) where the licensed insurer is established or incorporated outside Singapore, as a chief executive of the licensed insurer in relation to the relevant business of the licensed insurer,

during the period when the Authority or statutory manager is in control of the relevant business of the licensed insurer —

- (i) the act or purported act of the person shall be invalid and of no effect; and
- (ii) the person shall be guilty of an offence.

[Act 11 of 2013 wef 18/04/2013]

(9) During the period when the Authority or statutory manager is in control of the relevant business of a licensed insurer —

- (a) if there is any conflict or inconsistency between —
- (i) a direction or decision given by the Authority or statutory manager (including a direction or decision to a person or body of persons referred to in sub-paragraph (ii)); and

- (ii) a direction or decision given by a chief executive, director, member, executive officer, employee, agent or office holder, or the board of directors, of the licensed insurer,

the direction or decision referred to in sub-paragraph (i) shall, to the extent of the conflict or inconsistency, prevail over the direction or decision referred to in sub-paragraph (ii); and

- (b) no person shall exercise any voting or other right attached to any share in the licensed insurer in any manner that may defeat or interfere with any duty, function or power of the Authority or statutory manager, and any such act or purported act shall be invalid and of no effect.

[Act 11 of 2013 wef 18/04/2013]

(10) Any person who is guilty of an offence under subsection (7) or (8) shall be liable on conviction to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction.

[Act 11 of 2013 wef 18/04/2013]

(11) In this section, “constitution of the licensed insurer” means the memorandum of association and articles of association of the licensed insurer or other instrument under which the licensed insurer is established or incorporated.

[Act 11 of 2013 wef 18/04/2013]

[Act 16 of 2011 wef 01/05/2011]

Duration of control

41B.—(1) The Authority shall cease to be in control of the relevant business of a licensed insurer when the Authority is satisfied that the reasons for its assumption of control of the relevant business have ceased to exist or that it is no longer necessary for the protection of the policy owners of the licensed insurer.

[Act 11 of 2013 wef 18/04/2013]

(2) A statutory manager shall be deemed to have assumed control of the relevant business of a licensed insurer on the date of his appointment as a statutory manager.

[Act 11 of 2013 wef 18/04/2013]

(3) The appointment of a statutory manager in relation to the relevant business of a licensed insurer may be revoked by the Authority at any time —

(a) if the Authority is satisfied that the reasons for the appointment have ceased to exist or that it is no longer necessary for the protection of the policy owners of the licensed insurer; or

(b) on any other ground,

and upon such revocation, the statutory manager shall cease to be in control of the relevant business of the licensed insurer.

[Act 11 of 2013 wef 18/04/2013]

(4) The Authority shall publish in the *Gazette* the date, and such other particulars as it thinks fit, of —

(a) its assumption of control of the relevant business of a licensed insurer;

(b) the cessation of its control of the relevant business of a licensed insurer;

(c) the appointment of a statutory manager in relation to the relevant business of a licensed insurer; and

(d) the revocation of a statutory manager's appointment in relation to the relevant business of a licensed insurer.

[Act 11 of 2013 wef 18/04/2013]

[16/2011 wef 01/05/2011]

Responsibilities of officers, member, etc., of licensed insurer

41C.—(1) During the period when the Authority or statutory manager is in control of the relevant business of a licensed insurer —

(a) the High Court may, on an application of the Authority or statutory manager, direct any person who has ceased to be or who is still a chief executive, director, member, executive officer, employee, agent, banker, auditor or

office-holder of, or trustee for, the licensed insurer to pay, deliver, convey, surrender or transfer to the Authority or statutory manager, within such period as the High Court may specify, any property, book, accounts, record or other documents, whether in electronic, print or other form, of the insurer which is comprised in, forms part of or relates to the relevant business of the insurer, and which is in the person's possession or control; and

- (b) any person who has ceased to be or who is still a chief executive, director, member, executive officer, employee, agent, banker, auditor or office-holder of, or trustee for, the insurer shall give to the Authority or statutory manager such information as the Authority or statutory manager may require for the discharge of its or his duties or functions, or the exercise of its or his powers, in relation to the licensed insurer, within such time and in such manner as may be specified by the Authority or statutory manager.

[Act 11 of 2013 wef 18/04/2013]

(2) Any person who —

- (a) without reasonable excuse, fails to comply with subsection (1)(b); or
- (b) in purported compliance with subsection (1)(b), knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction.

[Act 11 of 2013 wef 18/04/2013]

[16/2011 wef 01/05/2011]

Remuneration and expenses of Authority and others in certain cases

41D. The Authority may at any time fix the remuneration and expenses to be paid by a licensed insurer —

- (a) to a statutory manager appointed in relation to a licensed insurer, whether or not the appointment has been revoked; and
- (b) where the Authority has assumed control of the relevant business of the licensed insurer, to the Authority and any person employed or authorised by the Authority under section 50 in relation to its assumption of control of the relevant business, whether or not the Authority has ceased to be in control of the relevant business.

[Act 11 of 2013 wef 18/04/2013]

Moratorium

41E.—(1) The High Court may, on the application of the Authority, if it considers it to be in the interests of the policy owners of a licensed insurer, make one or more of the following orders:

- (a) that no resolution shall be passed, and no order shall be made, for the winding up of the licensed insurer;
- (b) that no proceedings shall be commenced or continued by or against the licensed insurer in respect of any business of the licensed insurer;
- (c) that no execution, distress or other legal process shall be commenced, levied or continued against any property of the licensed insurer;
- (d) that no steps shall be taken to enforce any security over any property of the licensed insurer or to repossess from the licensed insurer any goods under any hire-purchase agreement, chattels leasing agreement or retention of title agreement;
- (e) that no steps shall be taken by any person, other than a person specified in the order, to sell, transfer, assign or otherwise dispose of any property of the licensed insurer.

[Act 11 of 2013 wef 18/04/2013]

(2) Any sale, transfer, assignment or other disposition of any property of the licensed insurer in contravention of any order made under subsection (1)(e) shall be void.

[Act 11 of 2013 wef 18/04/2013]

(3) Any order made under subsection (1) shall be valid for a period not exceeding 6 months.

[Act 11 of 2013 wef 18/04/2013]

[16/2011 wef 01/05/2011]

Interpretation of sections 41 to 41E

41F. In sections 41 to 41E, unless the context otherwise requires —

“business” includes affairs and property;

“office-holder”, in relation to a licensed insurer, means any person acting in relation to the insurer as its liquidator, provisional liquidator, receiver, receiver and manager or an equivalent person;

“property” includes property, right and power of every description;

“relevant business” means any business of a licensed insurer —

(a) which the Authority has assumed control of under section 41; or

(b) in relation to which a statutory manager has been appointed under section 41;

“relevant person” means a licensed insurer or an insurance intermediary;

“statutory manager” means a statutory manager appointed under section 41.

[Act 11 of 2013 wef 18/04/2013]

[16/2011 wef 01/05/2011]

PART IIIA

ASSISTANCE TO FOREIGN REGULATORY AUTHORITIES

Interpretation of this Part

49A. In this Part, unless the context otherwise requires —

“enforce” means enforce through criminal, civil or administrative proceedings;

“enforcement” means the taking of any action to enforce a law or regulatory requirement against a specified person, being a law or regulatory requirement that relates to the insurance industry in the foreign country of the regulatory authority concerned;

[Deleted by Act 11 of 2013 wef 18/04/2013]

“investigation” means an investigation to determine if a specified person has contravened or is contravening a law or regulatory requirement, being a law or regulatory requirement that relates to the insurance industry in the foreign country of the regulatory authority concerned;

“material” includes any information, book, document or other record in any form whatsoever, and any container or article relating thereto;

“prescribed written law” means this Act, or any of the following written laws and any subsidiary legislation made thereunder:

- (a) Banking Act (Cap. 19);
- (b) Finance Companies Act (Cap. 108);
- (c) Financial Advisers Act (Cap. 110);
- (d) Monetary Authority of Singapore Act (Cap. 186);
- (e) Money-changing and Remittance Businesses Act (Cap. 187);
- (f) Securities and Futures Act (Cap. 289); or
- (g) such other Act as the Authority may prescribe;

“regulatory authority”, in relation to a foreign country, means an authority of the foreign country exercising any function that corresponds to a regulatory function of the Authority under this Act;

“supervision”, in relation to a regulatory authority, means the taking of any action for or in connection with the supervision of a subject-matter in the foreign country of the regulatory authority similar to that to which this Act pertains.

[41/2001]

Conditions for provision of assistance

49B.—(1) The Authority may provide the assistance referred to in section 49D to a regulatory authority of a foreign country if the Authority is satisfied that all of the following conditions are fulfilled:

- (a) the request by the regulatory authority for assistance is received by the Authority on or after 8th January 2002;
- (b) the assistance is intended to enable the regulatory authority, or any other authority of the foreign country, to carry out supervision, investigation or enforcement;
- (c) the contravention of the law or regulatory requirement to which the request relates took place on or after 8th January 2002;
- (d) the regulatory authority has given a written undertaking that any material or copy thereof obtained pursuant to its request shall not be used for any purpose other than a purpose that is specified in the request and approved by the Authority;
- (e) the regulatory authority has given a written undertaking not to disclose to a third party (other than a designated third party of the foreign country in accordance with paragraph (f)) any material received pursuant to the request unless the regulatory authority is compelled to do so by the law or a court of the foreign country;
- (f) the regulatory authority has given a written undertaking to obtain the prior consent of the Authority before disclosing any material received pursuant to the request to a designated third party, and to make such disclosure only in accordance with such conditions as may be imposed by the Authority;
- (g) the material requested for is of sufficient importance to the carrying out of the supervision, investigation or enforcement to which the request relates and cannot reasonably be obtained by any other means;

- (h) the matter to which the request relates is of sufficient gravity; and
- (i) the rendering of assistance will not be contrary to the public interest or the interest of the policy owners.

[41/2001]

(2) In subsection (1)(e) and (f), “designated third party”, in relation to a foreign country, means —

- (a) any person or body responsible for supervising the regulatory authority in question;
- (b) any authority of the foreign country responsible for carrying out the supervision, investigation or enforcement in question; or
- (c) any authority of the foreign country exercising a function that corresponds to a regulatory function of the Authority under this Act.

[41/2001]

Other factors to consider for provision of assistance

49C. In deciding whether to grant a request for assistance referred to in section 49D from a regulatory authority of a foreign country, the Authority may also have regard to the following:

- (a) whether the act or omission that is alleged to constitute the contravention of the law or regulatory requirement to which the request relates would, if it had occurred in Singapore, have constituted an offence under this Act;
- (b) whether the regulatory authority has given or is willing to give an undertaking to the Authority to comply with a future request by the Authority to the regulatory authority for similar assistance;
- (c) whether the regulatory authority has given or is willing to give an undertaking to the Authority to contribute towards the costs of providing the assistance that the regulatory authority has requested for.

[41/2001]

Assistance that may be rendered

49D.—(1) Notwithstanding the provisions of any prescribed written law or any requirement imposed thereunder or any rule of law, the Authority or any person authorised by the Authority may, in relation to a request by a regulatory authority of a foreign country for assistance —

- (a) transmit to the regulatory authority any material in the possession of the Authority that is requested by the regulatory authority or a copy thereof;
- (b) order any person to furnish to the Authority any material that is requested by the regulatory authority or a copy thereof, and transmit the material or copy to the regulatory authority;
- (c) order any person to transmit directly to the regulatory authority any material that is requested by the regulatory authority or a copy thereof;
- (d) order any person to make an oral statement to the Authority on any information requested by the regulatory authority, record such statement, and transmit the recorded statement to the regulatory authority; or
- (e) request any Ministry, Government department or statutory authority to furnish to the Authority any material that is requested by the regulatory authority or a copy thereof, and transmit the material or copy to the regulatory authority.

[41/2001]

(2) The assistance referred to in subsection (1)(c) may only be rendered if the material sought is to enable the regulatory authority to carry out investigation or enforcement.

[41/2001]

(3) An order under subsection (1)(b), (c) or (d) shall have effect notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by any prescribed written law or any requirement imposed thereunder, any rule of law, any contract or any rule of professional conduct.

[41/2001]

- (4) Nothing in this section shall compel an advocate and solicitor —
- (a) to furnish or transmit any material or copy thereof that contains; or
 - (b) to disclose,

a privileged communication made by or to him in that capacity.

[41/2001]

(5) An advocate and solicitor who refuses to disclose, or to furnish or transmit any material or copy thereof that contains, any privileged communication shall nevertheless be obliged to give the name and address (if he knows them) of the person to whom, or by or on behalf of whom, the privileged communication was made.

[41/2001]

(6) A person is not excused from making an oral statement pursuant to an order made under subsection (1)(d) on the ground that the statement might tend to incriminate him but, where the person claims before making the statement that the statement might tend to incriminate him, that statement is not admissible in evidence against him in criminal proceedings other than proceedings for an offence under section 49E.

[41/2001]

Offences under this Part

49E.—(1) Any person who —

- (a) without reasonable excuse, refuses or fails to comply with an order under section 49D(1)(b), (c) or (d);
- (b) in purported compliance with an order under section 49D(1)(b) or (c), furnishes to the Authority or transmits to the regulatory authority, any material or copy thereof known to the person to be false or misleading in a material particular; or
- (c) in purported compliance with an order made under section 49D(1)(d), makes a statement to the Authority that is false or misleading in a material particular,

shall be guilty of an offence.

[41/2001]

(2) Any person who is guilty of an offence under subsection (1)(a) shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction; or

(b) in any other case, to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

[Act 11 of 2013 wef 18/04/2013]

(3) Any person who is guilty of an offence under subsection (1)(b) or (c) shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both; or

(b) in any other case, to a fine not exceeding \$100,000.

[Act 11 of 2013 wef 18/04/2013]

Immunities

49F.—(1) No civil or criminal proceedings, other than proceedings for an offence under section 49E, shall lie against any person for —

(a) furnishing to the Authority or transmitting any material or copy thereof to the Authority or a regulatory authority of a foreign country if he had furnished or transmitted that material or copy in good faith in compliance with an order made under section 49D(1)(b) or (c);

(b) making a statement to the Authority in good faith and in compliance with an order made under section 49D(1)(d); or

(c) doing or omitting to do any act, if he had done or omitted to do the act in good faith and as a result of complying with such an order.

[41/2001]

(2) Any person who complies with an order referred to in subsection (1)(a) or (b) shall not be treated as being in breach of any restriction upon the disclosure of information or thing imposed by any prescribed written law or any requirement imposed thereunder, any rule of law, any contract or any rule of professional conduct.

[41/2001]

PART IIIAA

TRANSFER OF BUSINESS AND SHARES, RESTRUCTURING OF LICENSED INSURER AND WINDING UP

Division 1 — Voluntary transfer of business

Interpretation of this Division

49FA. In this Division —

“transferee” means a licensed insurer, a company or a co-operative society which has applied or will be applying for a licence to carry on the relevant class or classes of business, to which the whole or part of a transferor’s business is or is to be, or is proposed to be, transferred under this Division;

[Act 11 of 2013 wef 18/04/2013]

“transferor” means a licensed insurer, the whole or part of the business of which is or is to be, or is proposed to be, transferred under this Division.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

Voluntary transfer of business

49FB.—(1) The whole or part of the insurance business of a transferor may only be transferred to a transferee in respect of the class or classes of business to be transferred if —

- (a) the transfer is effected by a scheme under this section; and
- (b) the transferor has obtained the approval of the Authority for such a transfer.

[16/2011 wef 01/05/2011]

(2) Any approval granted by the Authority under this section for the transfer of the whole or part of the insurance business of a licensed insurer may be subject to such conditions as the Authority may determine.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(3) The Authority may at any time, add to, vary or revoke any conditions imposed under subsection (2).

[16/2011 wef 01/05/2011]

(4) Subsection (1) shall not apply to the transfer of the whole or part of any insurance business of a company established or incorporated outside Singapore, except in so far as it relates to Singapore policies or offshore policies.

[Act 11 of 2013 wef 18/04/2013]

(4A) Subject to subsection (6), subsection (1)(a) shall not apply to the transfer of the whole or part of any insurance business of —

(a) a licensed insurer where it relates to the reinsurance business of that insurer; or

(b) a captive insurer.

[Act 11 of 2013 wef 18/04/2013]

(5) For the avoidance of doubt, subsection (4A)(a) shall not affect, in relation to the transfer of the whole or any part of any insurance business of a licensed direct insurer under subsection (1), the reinsurance of liabilities under such transferred insurance business.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(6) A licensed insurer which falls within subsection (4A)(a) or (b) may apply to the Authority in writing for consent to transfer the whole or part of its insurance business to another licensed insurer, by a scheme under this section, in which event Division 1 of this Part shall apply to the licensed insurer.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(7) Any licensed insurer, not being a company established or incorporated outside Singapore, shall by virtue of this section have power to make such a transfer by a scheme under this section, and the

directors shall have authority on behalf of the insurer to arrange for and do all things necessary to give effect to such a transfer.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(8) Subsection (7) shall apply notwithstanding the absence of the power or authority mentioned in that subsection under the constitution of the licensed insurer or any limitation imposed by its constitution on its powers or on the authority of its directors.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(9) A scheme under this section may provide for the business in question to be transferred to a body not licensed as an insurer under this Act in respect of the relevant class of business (including a body not yet in existence), if the scheme is so framed as to operate only in the event of the body becoming so licensed.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(10) A scheme under this section for the transfer of any insurance business by a transferor may extend to the transfer with it of any other business, not being insurance business, where the other business is carried on by the transferor as ancillary only to the insurance business transferred.

[16/2011 wef 01/05/2011]

(11) A scheme under this section may include provision for matters incidental to the transfer thereby effected, and provision for giving effect to that transfer and, in particular —

- (a) for any property, rights or liabilities of the transferor (including assets comprised in a deposit under this Act or in an insurance fund) to vest, by virtue of the scheme and without further or other assurance, in the transferee; and
- (b) for the registration by the transferee of policies transferred, for the amounts to be included in respect of those policies in the transferee's insurance fund and for other matters arising under this Act out of the transfer.

[16/2011 wef 01/05/2011]

(12) A scheme under this section shall be of no effect unless confirmed by the High Court, but may be prepared and submitted for confirmation to the High Court by any of the insurers concerned.

[16/2011 wef 01/05/2011]

(13) If so confirmed, the scheme shall have effect according to its tenor notwithstanding anything in the preceding sections of this Act and be binding on any person thereby affected.

[16/2011 wef 01/05/2011]

Confirmation of schemes

49FC.—(1) Before an application is made to the High Court for confirmation of a scheme under section 49FB —

- (a) a copy of the scheme shall be lodged with the Authority together with copies of the actuarial and other reports, if any, upon which the scheme is founded after the transferor has obtained the approval of the Authority pursuant to section 49FB(1);
- (b) not earlier than one month after the copy is so lodged, notice of the intention to make the application (containing such particulars as are prescribed) shall be published in the *Gazette* and in not less than 2 newspapers approved by the Authority; and
- (c) for a period of 15 days after the publication of the notice, a copy of the scheme shall be kept at each office in Singapore of the transferor and shall be opened to inspection by all members and policy owners of the transferor who are affected by the scheme.

[16/2011 wef 01/05/2011]

(2) The Authority may cause a report on the scheme to be made by an actuary independent of the parties to the scheme and, if it does so, shall cause a copy of the report to be sent to each of the transferor and transferee.

[16/2011 wef 01/05/2011]

(3) Copies of the scheme and any such report as is mentioned in subsection (1)(a) or (2), or summaries approved by the Authority of the scheme and any such report, shall, except in so far as the High Court upon application made in that behalf otherwise directs, be

transmitted by the transferor and transferee, at least 15 days before application is made for confirmation of the scheme, to every policy owner affected by the scheme.

[16/2011 wef 01/05/2011]

(4) An application to the High Court with respect to any matter connected with the scheme may, at any time before confirmation by the Court, be made by the Authority or by any person who, in the opinion of the Court, is likely to be affected by the scheme.

[16/2011 wef 01/05/2011]

(5) The High Court may confirm the scheme without modification or subject to modifications agreed to by the transferor and transferee, or may refuse to confirm the scheme.

[16/2011 wef 01/05/2011]

(6) The transferor and transferee shall be jointly and severally liable to reimburse to the Authority any expenses incurred by the Authority under this section in connection with any scheme or proposed scheme (subject to any order of the High Court as to costs).

[16/2011 wef 01/05/2011]

(7) The scheme or proposed scheme referred to in subsection (6) shall include provision as to how that liability is, as between the transferor and transferee, to be borne.

[16/2011 wef 01/05/2011]

Documents to be filed when scheme confirmed

49FD.—(1) Where, by a scheme under section 49FB, the insurance business of a transferor is transferred to a transferee, the transferee shall, within one month after the scheme takes effect, lodge with the Authority —

- (a) statements of the assets and liabilities of each of the transferor and transferee as at the time immediately before the transfer, signed on behalf of the transferor or transferee, as the case may be, and in the case of the transferor, indicating whether the transfer is of the whole of the transferor's business and, if not, the extent to which the transferor's assets and liabilities relate to the business transferred;

- (b) a copy of the scheme as confirmed by the High Court, and a certified copy of the order of the Court confirming the scheme;
- (c) copies of any actuarial or other reports upon which the scheme was founded (being reports made since a copy of the scheme was lodged under section 49FC(1));
- (d) a statement, in such form and manner as the Authority may specify in writing, from an auditor of the transferee who satisfies the conditions mentioned in section 36(6)(a) and (b) certifying that the assets and liabilities of the transferor relating to the business transferred have been assumed and accounted for in the books of the transferee; and

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- (e) a statutory declaration made by the chairman of the board of directors of the transferee, or by its chief executive, fully setting forth every payment made or to be made to any person on account of the transfer, and stating that, to the best of his belief, no other payment beyond those so set forth has been, or is to be, made on account thereof by or with the knowledge of any insurer concerned; and in this paragraph, references to the making of a payment include references to the transfer of property or rights of any description.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(1A) If the statement lodged in accordance with subsection (1)(d) is not in the form or manner specified by the Authority of the Authority, the Authority may, by notice in writing, give such directions to the transferee to procure that the statement contains such particulars as may be necessary for the purposes of subsection (1)(d), but nothing in this subsection shall compel an auditor to amend his opinion in the statement.

[Act 11 of 2013 wef 18/04/2013]

(2) On the confirmation of a scheme under section 49FC, each of the transferor and transferee shall (unless it is an unincorporated company) file a copy of the scheme with the Registrar of

Companies or, in the case of co-operative societies, with the Registrar of Co-operative Societies.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(3) Any transferee which fails to comply with any direction of the Authority under subsection (1A) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000.

[Act 11 of 2013 wef 18/04/2013]

Division 2 — Compulsory transfer of business

Interpretation of this Division

49FE. In this Division, unless the context otherwise requires —

“business” includes affairs, property, right, obligation and liability;

“certificate” means a certificate of transfer issued by the Minister under section 49FG(1);

“debenture” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

“determination” means a determination of the Authority under section 49FF(1);

“property” includes property, right and power of every description;

“specified business” means that part of the business of a transferor which is specified or identified in a certificate;

“transferee” means a licensed insurer, a company or a co-operative society which has applied for or will be applying for a licence to carry on the relevant class or classes of business to be transferred in Singapore, as the case may be, to which the whole or part of a transferor’s business is, or is to be, or is proposed to be, transferred under this Division;

[Act 11 of 2013 wef 18/04/2013]

“transferor” means a licensed insurer, the whole or part of the business of which is, or is to be, or is proposed to be, transferred under this Division.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

Compulsory transfer of business

49FF.—(1) Subject to subsections (2), (3) and (7), the Authority may make a determination that the whole or any part of the business of a transferor (including its non-insurance business) shall be transferred to a transferee which is licensed to carry on the relevant class or classes of insurance business to be transferred in Singapore if —

- (a) any ground exists under section 41(1) for the Authority to exercise any power under section 41(2) in relation to the transferor, whether or not the Authority has exercised the power;
- (b) the board of directors of the transferee has consented to the transfer;
- (c) the Authority is satisfied that the transfer is appropriate, having regard to —
 - (i) the interests of the policy owners of the transferor given priority and the order of priority of each class of policy owners under section 49FR;
 - (ii) the interests of the policy owners of the transferee given priority and the order of priority of each class of policy owners under section 49FR;
 - (iii) the stability of the financial system in Singapore;
 - (iv) whether the PPF Agency has to make a payout from any of the PPF Funds to the transferee and the amount of such payout, if any; and
 - (v) any other matter that the Authority considers relevant; and

- (d) the transfer involves the whole or part of the insurance business of the transferor.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(2) Any determination made by the Authority for the purpose of subsection (1) may include a determination as to whether guaranteed policy moneys in relation to any policy should be adjusted after the proposed transfer.

[16/2011 wef 01/05/2011]

(3) Where the transferor is a licensed insurer incorporated or established outside Singapore, any determination shall only be in respect of the transferor's business (or any part thereof) which is reflected in the books of the transferor in Singapore in relation to the transferor's operations in Singapore and the reference to policy owners in subsection (1)(c)(i) shall be construed accordingly.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(4) The Authority may, before making a determination, appoint one or more persons to perform an independent assessment of the proposed transfer of the business (or any part thereof) of the transferor for the purpose of providing a report on the transfer to the Authority, including an assessment —

- (a) as to the compensation, if any, that should be paid by the transferee; and
- (b) as to whether guaranteed policy moneys in relation to any policy should be adjusted after the proposed transfer.

[16/2011 wef 01/05/2011]

(5) The remuneration and expenses of a person appointed under subsection (4) shall be borne by the transferor.

[16/2011 wef 01/05/2011]

(6) The Authority shall serve a copy of any report furnished under subsection (4) on the transferor and the transferee.

[16/2011 wef 01/05/2011]

(7) A determination may provide for the transfer of the business (or any part thereof) of the transferor to a transferee who is not licensed to carry on the relevant class or classes of insurance business in

Singapore on terms that the transfer is to take effect only in the event of the transferee becoming so licensed.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(8) Upon making a determination, the Authority shall submit the determination to the Minister for his approval.

[16/2011 wef 01/05/2011]

(9) Before approving the determination, the Minister shall, unless he decides that it is not practicable or desirable to do so —

(a) publish in the *Gazette* and in such newspaper or newspapers as the Minister may determine a notice of his intention to approve the determination, specifying such particulars as the Minister considers appropriate; and

(b) cause to be given to the transferor notice in writing of his intention to approve the determination, specifying such particulars as the Minister considers appropriate and the date by which the transferor may make written representations to the Minister.

[16/2011 wef 01/05/2011]

(10) In determining the period within which written representations have to be made under subsection (9), the Minister shall take into account the need for the transfer to be effected expeditiously in the interest of the stability of the financial system in Singapore.

[16/2011 wef 01/05/2011]

(11) Upon receipt of any written representation, the Minister shall consider the representation for the purpose of deciding whether to approve the determination.

[16/2011 wef 01/05/2011]

(12) Where the transferor is a licensed insurer established or incorporated in Singapore, the Minister shall not approve the determination unless he is satisfied that it is in the public interest to do so.

[16/2011 wef 01/05/2011]

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(13) The Minister may —

(a) approve the determination without modification;

- (b) approve the determination subject to any modification he considers appropriate if the transferee, or where the transferee is a corporation, its board of directors of the transferee has agreed to the modification; or
- (c) refuse to approve the determination.

[16/2011 wef 01/05/2011]

(14) An approval under subsection (13) shall be subject to such conditions as the Minister may determine and the Minister may add to, vary or revoke any such conditions.

[16/2011 wef 01/05/2011]

(15) The transferor or transferee, as the case may be, shall comply with the conditions referred to in subsection (14).

[16/2011 wef 01/05/2011]

(16) A determination, the approval of a determination under this section or the issue of a certificate shall not preclude the exercise of any other power by the Authority or the Minister under this Act.

[16/2011 wef 01/05/2011]

Certificate of transfer

49FG.—(1) If the Minister approves a determination, he shall, as soon as practicable, issue a certificate of transfer which shall come into effect on the date specified by the Minister in the certificate.

[16/2011 wef 01/05/2011]

(2) The certificate shall specify such information as may be prescribed.

[16/2011 wef 01/05/2011]

(3) The certificate may make provision for all or any of the following matters:

- (a) the transfer to the transferee of the whole or any part of the business of the transferor;
- (b) whether guaranteed policy moneys in relation to any policy should be adjusted after the proposed transfer;
- (c) the allotment or appropriation by the transferee of any share, debenture, policy or other interest in the transferee which under the transfer is to be allotted or appropriated by the transferee to or for any person;

- (d) any property which is held by the transferor as trustee;
- (e) any future or contingent right or liability of the transferor;
- (f) the coming into effect of the transfer of any specified business on a date other than the date on which the certificate comes into effect;
- (g) the compensation, if any, to be paid by the transferee to the transferor and the period within which the compensation is to be paid;
- (h) such incidental, consequential and supplementary matters as are, in the Minister's opinion, necessary to secure that the transfer is fully effective, including conditions relating to the transfer.

[16/2011 wef 01/05/2011]

(4) The Minister may at any time before the certificate comes into effect add to, vary or revoke any matter specified in the certificate.

[16/2011 wef 01/05/2011]

(5) The Authority shall cause the certificate and any addition, variation or revocation referred to in subsection (4) to be served on the transferor and the transferee and published in the *Gazette* and in such newspaper or newspapers as the Minister may determine, on or before the date on which the certificate comes into effect.

[16/2011 wef 01/05/2011]

(6) Subject to subsection (7), unless otherwise specified in the certificate, the transfer of the business (or any part thereof) of the transferor under the certificate shall take effect on the date on which the certificate comes into effect.

[16/2011 wef 01/05/2011]

(7) Where the transferee is not licensed to carry on insurance business or the relevant class of business in Singapore, the transfer of the business (or any part thereof) of the transferor shall not come into effect unless the transferee becomes so licensed.

[16/2011 wef 01/05/2011]

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(8) Notwithstanding any written law or rule or law, upon the date on which the transfer of the business (or any part thereof) of the transferor comes into effect under the certificate —

- (a) subject to subsection (10), the business (or any part thereof) shall be transferred to and vest in the transferee without other or further assurance, act or deed and the certificate shall have effect according to its tenor and be binding on any person thereby affected;
- (b) all deeds, bonds, agreements and other arrangements subsisting immediately before that date which relate to the business (or any part thereof), and to which the transferor is a party shall, taking into account the adjustments as may be specified in the certificate to be made to guaranteed policy moneys payable under such agreements or arrangements, continue in full force and effect, and shall be enforceable by or against the transferee, as from that date as if the transferee had been named therein or had been a party thereto instead of the transferor; and
- (c) any proceedings or cause of action, by or against the transferor, pending or existing immediately before that date and relating to the business (or any part thereof) may be continued and shall be enforced by or against the transferee as from that date.

[16/2011 wef 01/05/2011]

(9) For the avoidance of doubt —

- (a) the business (or any part thereof) of the transferor shall be transferred to and vest in the transferee in accordance with subsection (8) notwithstanding any incapacity of the transferor; and
- (b) where guaranteed policy moneys under a policy has been adjusted (hereafter referred to as adjusted guaranteed policy moneys), the policy owner or claimant shall continue to have recourse against the transferor for the difference between the original guaranteed policy moneys and the adjusted guaranteed policy moneys.

[16/2011 wef 01/05/2011]

(10) The certificate shall not have any effect or operation in transferring or otherwise vesting land in Singapore until the

appropriate entries are made with respect to the transfer or vesting of that land by the appropriate authority.

[16/2011 wef 01/05/2011]

(11) Section 259 of the Companies Act (Cap. 50) shall not apply to the transfer of any property under the certificate.

[16/2011 wef 01/05/2011]

(12) If any specified business is governed by the law of any foreign country, the certificate may require the transferor, if the transferee so requires, to take all necessary steps for securing that the transfer of the specified business to the transferee is fully effective under the law of that country.

[16/2011 wef 01/05/2011]

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(13) The transferee and the transferor shall each lodge, within 7 days after being served with the certificate —

(a) a copy of the certificate with the Registrar of Companies or, in the case of co-operative societies, with the Registrar of Co-operative Societies; and

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(b) where the certificate relates to land in Singapore, an office copy of the certificate with the appropriate authority concerned for the registration or recording of dealings in that land.

[16/2011 wef 01/05/2011]

(14) A transferor or a transferee which fails to comply with any provision in the certificate shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(15) A transferor which fails to comply with subsection (12) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a

further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

[16/2011 wef 01/05/2011]

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(16) A transferor or a transferee which fails to comply with subsection (13) and every officer of the transferor or the transferee who fails to take all reasonable steps to secure compliance by the transferor or the transferee, as the case may be, with that subsection shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 and, in the case of a continuing offence, to a further fine not exceeding \$200 for every day or part thereof during which the offence continues after conviction.

[16/2011 wef 01/05/2011]

Moratorium, avoidance of disposition of property, etc.

49FH.—(1) Notwithstanding section 41E and subject to section 49FQ, no resolution shall be passed, and no order shall be made, for the winding up of a transferor during the period —

(a) beginning on —

- (i) the date on which the Minister publishes the notice under section 49FF(9) in the *Gazette* on the transfer of the business (or any part thereof) of the transferor; or
- (ii) where the notice is not published in the *Gazette*, the date on which the Authority publishes the certificate under section 49FG(5) in the *Gazette* on the transfer of the business (or any part thereof) of the transferor; and

(b) ending on —

- (i) the date on which the certificate comes into effect; or
- (ii) where the certificate specifies a different date for the coming into effect of the transfer of any specified business, the last date on which the transfer of every specified business has come into effect.

[16/2011 wef 01/05/2011]

(2) Notwithstanding section 41E and subject to section 49FU, during the period beginning with the date on which the Minister publishes the notice under section 49FF(9) in the *Gazette* on the transfer of a specified business of the transferor or, where the notice is not published in the *Gazette*, the date on which the Authority publishes the certificate under section 49FG(5) in the *Gazette* on the transfer of the specified business and ending with the date on which the transfer of the specified business comes into effect —

- (a) no proceedings shall be commenced or continued against the transferor in respect of the specified business;
- (b) no execution, distress or other legal process shall be commenced, levied or continued against the specified business;
- (c) no steps shall be taken to enforce any security over the specified business or repossess from the transferor the specified business under any hire-purchase agreement, chattels leasing agreement or retention of title agreement; and
- (d) any sale, transfer, assignment or other disposition of the specified business shall be void, except for any payment of claims to policy owners or claimants (other than policy owners who are related corporations of the transferor).

[16/2011 wef 01/05/2011]

Division 3 — Compulsory transfer of shares

Interpretation of this Division

49FI.—(1) In this Division, unless the context otherwise requires —

“business” includes affairs, property, right, obligation and liability;

“certificate” means a certificate of transfer issued by the Minister under section 49FK(1);

“determination” means a determination of the Authority under section 49FJ(1);

“effective controller” means a person who has effective control as defined in section 28(7);

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“property” includes property, right and power of every description;

“transferee” means a person to whom a transferor’s shares are, or are to be, or are proposed to be, transferred under this Division;

“transferor” means a shareholder of a licensed insurer incorporated in Singapore, whose shares in the licensed insurer are, or are to be, or are proposed to be, transferred under this Division.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(2) This Division shall not apply to a licensed insurer which is a co-operative society.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

Compulsory transfer of shares

49FJ.—(1) The Authority may make a determination that all or any of the shares held by a transferor in a licensed insurer incorporated in Singapore shall be transferred to a transferee if —

(a) any ground exists under section 41(1) for the Authority to exercise any power under section 41(2) in relation to the licensed insurer, whether or not the Authority has exercised the power;

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(b) the transferee or, where the transferee is a corporation, its board of directors has consented to the transfer; and

(c) the Authority is satisfied that the transfer is appropriate, having regard to —

(i) the interests of the policy owners of the licensed insurer given priority and the order of priority of each class of its policy owners under section 49FR;

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(ii) where the transferee is a licensed insurer in Singapore, the interests of the policy owners of the transferee given priority and the order of priority of each class of its policy owners under section 49FR;

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(iii) the stability of the financial system in Singapore;

(iv) whether the PPF Agency has to make a payout from any of the PPF Funds to the transferee and the amount of such payout, if any; and

(v) any other matter that the Authority considers relevant.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(2) The Authority may, before making a determination, appoint one or more persons to perform an independent assessment of the proposed transfer of shares, including the compensation, if any, that should be paid by the transferee, and furnish a report on the transfer.

[16/2011 wef 01/05/2011]

(3) The remuneration and expenses of a person appointed under subsection (2) shall be borne by the licensed insurer.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(4) The Authority shall serve a copy of any report furnished under subsection (2) on the transferor and the transferee.

[16/2011 wef 01/05/2011]

(5) Upon making a determination, the Authority shall submit the determination to the Minister for his approval.

[16/2011 wef 01/05/2011]

(6) Before approving the determination, the Minister shall, unless he decides that it is not practicable or desirable to do so, cause to be given to the transferor notice of his intention to approve the determination by publication in the *Gazette* and in such newspaper or newspapers as the Minister may determine, specifying such particulars as the

Minister considers appropriate and the date by which the transferor may make written representations to the Minister.

[16/2011 wef 01/05/2011]

(7) In determining the period within which written representations have to be made under subsection (6), the Minister shall take into account the need for the transfer to be effected expeditiously in the interest of the stability of the financial system in Singapore.

[16/2011 wef 01/05/2011]

(8) Upon receipt of any written representation, the Minister shall consider the representation for the purpose of deciding whether to approve the determination.

[16/2011 wef 01/05/2011]

(9) Where the determination, if approved, will result in the transferee becoming a substantial shareholder or an effective controller of the licensed insurer, the Minister shall not approve the determination unless —

- (a) the Authority is satisfied that —
 - (i) the transferee is a fit and proper person; and
 - (ii) having regard to the likely influence of the transferee, the licensed insurer will or will continue to conduct its business prudently and comply with the provisions of this Act; and
- (b) the Minister is satisfied that it is in the public interest to do so.

[16/2011 wef 01/05/2011]

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(10) The Minister may —

- (a) approve the determination without modification;
- (b) approve the determination subject to any modification he considers appropriate if the transferee or, where the transferee is a corporation, its board of directors has agreed to the modification; or
- (c) refuse to approve the determination.

[16/2011 wef 01/05/2011]

(11) Any approval under subsection (10) shall be subject to such conditions as the Minister may determine and the Minister may add to, vary or revoke any such conditions.

[16/2011 wef 01/05/2011]

(12) The transferor or transferee, as the case may be, shall comply with the conditions referred to in subsection (11).

[16/2011 wef 01/05/2011]

(13) A determination, the approval of a determination under this section or the issue of a certificate shall not preclude the exercise of any power by the Authority or the Minister under this Act.

[16/2011 wef 01/05/2011]

Certificate of transfer

49FK.—(1) If the Minister approves a determination, he shall, as soon as practicable, issue a certificate of transfer which shall come into effect on the date specified by the Minister in the certificate.

[16/2011 wef 01/05/2011]

(2) The certificate shall specify such information as may be prescribed.

[16/2011 wef 01/05/2011]

(3) The certificate may make provision for all or any of the following matters:

- (a) the transfer to the transferee of all or any of the shares of the transferor;
- (b) any share which is held by the transferor as trustee;
- (c) the compensation, if any, to be paid by the transferee to the transferor and the period within which the compensation is to be paid;
- (d) such incidental, consequential and supplementary matters as are, in the Minister's opinion, necessary to secure that the transfer is fully effective, including conditions relating to the transfer.

[16/2011 wef 01/05/2011]

(4) The Minister may at any time before the certificate comes into effect add to, vary or revoke any matter specified in the certificate.

[16/2011 wef 01/05/2011]

(5) The Authority shall cause the certificate and any addition, variation or revocation referred to in subsection (4), to be served on the licensed insurer and published in the *Gazette* and in such newspaper or newspapers as the Minister may determine, on or before the date on which the certificate comes into effect.

[16/2011 wef 01/05/2011]

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(6) Notwithstanding any written law or rule of law, upon the certificate coming into effect, any share of the transferor that is to be transferred under the certificate shall be transferred to and vest in the transferee, free from any claim or encumbrance, without other or further assurance, act or deed; and the certificate shall have effect according to its tenor and be binding on any person thereby affected.

[16/2011 wef 01/05/2011]

(7) For the avoidance of doubt, the shares of the transferor shall be transferred to and vest in the transferee in accordance with subsection (6) notwithstanding the death or dissolution, or the bankruptcy or winding up, or the mental or other incapacity, of the transferor.

[16/2011 wef 01/05/2011]

(8) Section 259 of the Companies Act (Cap. 50) shall not apply to the transfer of any share under the certificate.

[16/2011 wef 01/05/2011]

(9) Where the transfer of shares under the certificate results in the transferee becoming a substantial shareholder or an effective controller of the licensed insurer, the transferee shall, upon the coming into effect of the certificate —

(a) be deemed to have obtained the approval of the Authority under section 28 or 29, as the case may be, in respect of the shares; and

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(b) not be required to make a take-over offer or be required to acquire the shares of the other shareholders of the licensed insurer notwithstanding the provisions of the Companies Act (Cap. 50) or the Take-over Code.

[16/2011 wef 01/05/2011]

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(10) A transferor or a transferee who contravenes any provision in the certificate shall be guilty of an offence and shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction; and
- (b) in any other case, to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

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(11) Where a person is charged with an offence under subsection (10), it shall be a defence for the person to prove that —

- (a) he was not aware he had contravened any provision in the certificate; and
- (b) he has complied with the provision within a reasonable time after becoming aware of the contravention.

[16/2011 wef 01/05/2011]

(12) Except as provided in subsection (11), it shall not be a defence for a person charged with an offence under subsection (10) that he did not intend to or did not knowingly contravene any provision in the certificate.

[16/2011 wef 01/05/2011]

(13) Notwithstanding section 41E and subject to section 49FU, during the period beginning with the date on which the Minister publishes the notice under section 49FJ(6) in the *Gazette* on the transfer of any share in a licensed insurer or, where the notice is not published in the *Gazette*, the date on which the Authority publishes the certificate under subsection (5) in the *Gazette* on the transfer of the share and ending with the date on which the transfer of the share comes into effect —

- (a) no execution or other legal process shall be commenced or continued against the share;

- (b) no steps shall be taken to enforce any security over the share;
- (c) any sale, transfer, assignment or other disposition of the share shall be void;
- (d) no voting rights shall be exercisable in respect of the share unless the Minister expressly permits such rights to be exercised;
- (e) no shares in the licensed insurer shall be issued or offered (whether by way of rights, bonus or otherwise) in respect of the share unless the Minister expressly permits such issue or offer;
- (f) no payment shall be made by the licensed insurer of any amount (whether by dividends or otherwise) in respect of the share unless the Minister expressly authorises such payment;
- (g) no resolution shall be passed, and no order shall be made, for the winding up of the licensed insurer;
- (h) no proceedings shall be commenced or continued against the licensed insurer in respect of any business of the licensed insurer;
- (i) no execution, distress or other legal process shall be commenced, levied or continued against any property of the licensed insurer;
- (j) no steps shall be taken to enforce any security over any property of the licensed insurer; and
- (k) any sale, transfer, assignment or other disposition of any property of the licensed insurer shall be void except for any payment of claims to policy owners or claimants (other than policy owners who are related corporations of the licensed insurer).

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

*Division 4 — Power to restructure capital***Interpretation of this Division**

49FL. In this Division, unless the context otherwise requires —

“business” includes affairs, property, right, obligation and liability;

“certificate” means a certificate of restructuring issued by the Minister under section 49FN(1);

“determination” means a determination of the Authority under section 49FM(1) or (2);

“effective controller” means a person who has effective control as defined in section 28(7);

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“property” includes property, right and power of every description;

“subscriber” means any person to whom shares in a licensed insurer incorporated in Singapore are, or are to be, or are proposed to be, issued under this Division.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

Compulsory restructure of capital

49FM.—(1) If any ground exists under section 41(1) for the Authority to exercise any power under section 41(2) in relation to a licensed insurer incorporated or established in Singapore, whether or not the Authority has exercised the power, and the Authority is of the opinion that —

- (a) the liability on any of the shares of the licensed insurer in respect of share capital not paid up ought to be extinguished or reduced; or
- (b) any paid-up share capital of the licensed insurer is lost or unrepresented by the available assets of the licensed insurer,

the Authority may make a determination that the share capital of the licensed insurer shall be reduced by the cancellation of the whole or any part of its share capital not paid up, or of its paid-up share capital which is lost or unrepresented by its available assets.

[16/2011 wef 01/05/2011]

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(2) The Authority may, in writing, make a determination that shares shall be issued by a licensed insurer incorporated in Singapore to a subscriber if —

- (a) any ground exists under section 41(1) for the Authority to exercise any power under section 41(2) in relation to the licensed insurer, whether or not the Authority has exercised the power;
- (b) the subscriber or, where the subscriber is a corporation, its board of directors has consented to subscribe for the shares; and
- (c) the Authority is satisfied that the issue of shares is appropriate, having regard to —
 - (i) the interests of the policy owners of the licensed insurer given priority and the order of priority of each class of its policy owners under section 49FR;
 - (ii) where the subscriber is a licensed insurer in Singapore, the interests of policy owners of the subscriber given priority and the order of priority of each class of its policy owners under section 49FR;
 - (iii) the stability of the financial system in Singapore; and
 - (iv) any other matter that the Authority considers relevant.

[16/2011 wef 01/05/2011]

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(3) The Authority may, before making a determination, appoint one or more persons to perform an independent assessment of the value of the assets of the licensed insurer and, in the case of a determination

under subsection (2), the consideration, if any, that should be paid by the subscriber, and furnish a report on the restructuring.

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(4) The remuneration and expenses of a person appointed under subsection (3) shall be borne by the licensed insurer.

[16/2011 wef 01/05/2011]

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(5) The Authority shall serve a copy of any report furnished under subsection (3) on the licensed insurer and, where the report is in relation to a determination to be made under subsection (2), on the subscriber.

[16/2011 wef 01/05/2011]

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(6) Upon making a determination, the Authority shall submit the determination to the Minister for his approval.

[16/2011 wef 01/05/2011]

(7) Before approving the determination, the Minister shall, unless he decides that it is not practicable or desirable to do so —

- (a) publish in the *Gazette* and in such newspaper or newspapers as may be determined by the Minister a notice of his intention to approve the determination, specifying such particulars as the Minister considers appropriate and the date by which any shareholder of the licensed insurer may make written representations to the Minister; and

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- (b) cause to be given to the licensed insurer notice in writing of his intention to approve the determination, specifying such particulars as the Minister considers appropriate and the date by which the licensed insurer may make written representations to the Minister.

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(8) In determining the period within which written representations have to be made under subsection (7), the Minister shall take into

account the need for the restructuring to be effected expeditiously in the interest of the stability of the financial system in Singapore.

[16/2011 wef 01/05/2011]

(9) Upon receipt of any written representation, the Minister shall consider the representation for the purpose of deciding whether to approve the determination.

[16/2011 wef 01/05/2011]

(10) Where the determination under subsection (2), if approved, will result in the subscriber becoming a substantial shareholder or an effective controller of the licensed insurer, the Minister shall not approve the determination unless —

(a) the Authority is satisfied that —

(i) the subscriber is a fit and proper person; and

(ii) having regard to the likely influence of the subscriber, the licensed insurer will or will continue to conduct its business prudently and comply with the provisions of this Act; and

(b) the Minister is satisfied that it is in the public interest to do so.

[16/2011 wef 01/05/2011]

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(11) The Minister may —

(a) approve the determination without modification;

(b) approve the determination subject to any modification he considers appropriate if the subscriber or, where the subscriber is a corporation, its board of directors has agreed to the modification; or

(c) refuse to approve the determination.

[16/2011 wef 01/05/2011]

(12) Any approval under subsection (11) shall be subject to such conditions as the Minister may determine and the Minister may add to, vary or revoke any such conditions.

[16/2011 wef 01/05/2011]

(13) The licensed insurer or subscriber, as the case may be, shall comply with the conditions referred to in subsection (12).

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(14) A determination, the approval of a determination under this section or the issue of a certificate shall not preclude the Authority or the Minister from exercising any power under this Act.

[16/2011 wef 01/05/2011]

Certificate of restructuring

49FN.—(1) If the Minister approves a determination, he shall, as soon as practicable, issue a certificate of restructuring which shall come into effect on the date specified by the Minister in the certificate.

[16/2011 wef 01/05/2011]

(2) The certificate shall specify such information as may be prescribed.

[16/2011 wef 01/05/2011]

(3) The certificate may make provision for all or any of the following matters:

(a) the cancellation of the whole or any part of the share capital of the licensed insurer not paid up;

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(b) the cancellation of the whole or any part of the paid-up share capital of the licensed insurer lost or unrepresented by the available assets of the licensed insurer;

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(c) the shares to be issued by the licensed insurer to the subscriber, the compensation, if any, to be paid by the subscriber for the shares and the period within which the compensation is to be paid;

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(d) such incidental, consequential and supplementary matters as are, in the Minister's opinion, necessary to secure that the restructuring is fully effective, including conditions relating to the restructuring.

[16/2011 wef 01/05/2011]

(4) The Minister may at any time before the certificate comes into effect add to, vary or revoke any matter specified in the certificate.

(5) The Authority shall cause the certificate and any addition, variation or revocation referred to in subsection (4) to be served on the licensed insurer and published in the *Gazette* and in such newspaper or newspapers as the Minister may determine, on or before the date on which the certificate comes into effect.

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(6) Notwithstanding any written law or rule of law (including anything in the memorandum or articles of association of the licensed insurer) —

- (a) where the certificate provides for a reduction of the share capital of the licensed insurer, upon the certificate coming into effect, the reduction of the share capital shall take effect and the certificate shall have effect according to its tenor without other or further act by the licensed insurer and be binding on any person thereby affected; and
- (b) where the certificate provides for the issue of shares by the licensed insurer, the licensed insurer shall issue the shares in accordance with the certificate and the certificate shall have effect according to its tenor and be binding on any person thereby affected.

[16/2011 wef 01/05/2011]

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(7) Where the issue of shares under the certificate results in the subscriber becoming a substantial shareholder or an effective controller of the licensed insurer, the subscriber shall, upon the coming into effect of the certificate —

- (a) be deemed to have obtained the approval of the Authority under section 28 or 29, as the case may be, in respect of the shares; and
- (b) not be required to make a take-over offer or be required to acquire the shares of the other shareholders of the licensed

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insurer notwithstanding the provisions of the Companies Act (Cap. 50) or the Take-over Code.

[16/2011 wef 01/05/2011]

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(8) The licensed insurer shall lodge a copy of the certificate with the Registrar of Companies within 7 days after being served with the certificate.

[16/2011 wef 01/05/2011]

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(9) A licensed insurer or a subscriber which contravenes any provision in the certificate shall be guilty of an offence and shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction; and

(b) in any other case, to a fine not exceeding \$250,000 and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction.

[Act 11 of 2013 wef 18/04/2013]

(10) Where a subscriber is charged with an offence under subsection (9), it shall be a defence for the subscriber to prove that —

(a) he was not aware he had contravened any provision in the certificate; and

(b) he has complied with the provision within a reasonable time after becoming aware of the contravention.

[16/2011 wef 01/05/2011]

(11) Except as provided in subsection (10), it shall not be a defence for a subscriber charged with an offence under subsection (9) that he did not intend to or did not knowingly contravene any provision in the certificate.

[16/2011 wef 01/05/2011]

(12) Any licensed insurer which fails to comply with subsection (8) and every officer of the licensed insurer who fails to take all reasonable steps to secure compliance by the licensed insurer with that subsection shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 and, in the case of a continuing offence, to a further fine not exceeding \$200 for every day or part thereof during which the offence continues after conviction.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(13) Notwithstanding section 41E and subject to section 49FU, during the period beginning with the date on which the Minister publishes the notice under section 49FM(7) in the *Gazette* on the restructuring of the share capital of a licensed insurer or, where the notice is not published in the *Gazette*, the date on which the Authority publishes the certificate under subsection (5) in the *Gazette* on the restructuring of the share capital and ending with the date on which the certificate comes into effect —

(a) no resolution shall be passed, and no order shall be made, for the winding up of the licensed insurer;

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(b) no proceedings shall be commenced or continued against the licensed insurer in respect of any business of the licensed insurer;

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(c) no execution, distress or other legal process shall be commenced, levied or continued against any property of the licensed insurer;

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(d) no steps shall be taken to enforce any security over any property of the licensed insurer; and

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(e) any sale, transfer, assignment or other disposition of any property of the licensed insurer shall be void, except for any payment of claims to policy owners or claimants (other than

policy owners who are related corporations of the licensed insurer).

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

Division 5 — Winding up

General provisions as to winding up

49FO.—(1) On an application of the Authority, the Court may, in addition to the grounds specified in section 254(1) of the Companies Act (Cap. 50), order under that Act the winding up of a company incorporated in Singapore which is carrying on or has carried on insurance or insurance broking business in Singapore if —

- (a) the Authority has exercised any power under section 41(2) in relation to the company; or
- (b) the company has contravened any of the provisions of this Act.

[16/2011 wef 01/05/2011]

(2) On an application of the Authority, the Court may, in addition to the grounds specified in section 351(1) of the Companies Act, order under that Act the winding up of an unregistered company which is carrying on or has carried on insurance or insurance broking business in Singapore if —

- (a) the Authority has exercised any power under section 41(2) in relation to the company;
- (b) the company has been licensed or registered under this Act or under any written law repealed by this Act, and that licence or registration has been revoked or has expired and has not been renewed; or

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- (c) the company is carrying on or has carried on insurance or insurance broking business in Singapore in contravention of any provision of this Act.

[16/2011 wef 01/05/2011]

(3) Notwithstanding sections 254(2) and 351(2) of the Companies Act (Cap. 50), on an application of the Authority for the winding up,

on the ground specified in section 254(1)(e) or 351(1)(c)(ii) of the Companies Act, of a company which is carrying on or has carried on insurance or insurance broking business in Singapore, any statement of account lodged by the company with the Authority at any time during the period beginning with the close of the last financial year of the company and ending with the making of the application for the winding up which shows that the company is insolvent shall be evidence that the company is unable to pay its debts unless the Court, in its discretion, calls for further evidence on this issue.

[16/2011 wef 01/05/2011]

(4) Notwithstanding any written law or rule of law —

- (a) no person shall be appointed as a liquidator under the Companies Act of a company which is carrying on or has carried on insurance business in Singapore, without the prior written approval of the Authority; and
- (b) in the case of a foreign company which is a licensed insurer which is carrying on or has carried on insurance business in Singapore, a liquidator appointed for its liquidation or dissolution at its place of incorporation or origin shall not have the powers and functions of a liquidator for Singapore unless the liquidator has been approved by the Authority, and the exercise of any power or function by the liquidator in contravention of this paragraph shall be invalid and of no effect.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(5) For the avoidance of doubt, subsection (4)(a) shall not affect the operation of section 263(a), (d), (da) or (e) of the Companies Act (Cap. 50).

[16/2011 wef 01/05/2011]

(6) Any approval of the Authority under subsection (4)(b) shall be subject to such conditions as the Authority may determine and the Authority may add to, vary or revoke any such conditions.

[16/2011 wef 01/05/2011]

(7) The licensed insurer or the liquidator, as the case may be, referred to in subsection (4)(b) shall comply with the conditions referred to in subsection (6).

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(8) Notwithstanding any written law or rule of law, a liquidator appointed in respect of a licensed insurer carrying on insurance business in Singapore shall, when winding up the licensed insurer —

- (a) endeavour, as far as reasonably practicable, to sell or transfer the whole or part of the insurance business of the licensed insurer to any other insurer licensed to carry on the relevant class or classes of business;
- (b) continue to carry on the insurance business of the licensed insurer until the whole insurance business is transferred to another insurer licensed to carry on the relevant class or classes of business, unless directed by the Court; and
- (c) have all necessary powers to carry out the functions set out in paragraphs (a) and (b).

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(9) The Authority may at any time appoint one or more actuaries to perform an independent assessment of, and furnish a report on, the proposed transfer of the insurance business of a company by a liquidator pursuant to subsection (8).

[16/2011 wef 01/05/2011]

(10) The remuneration and expenses of any actuary appointed under subsection (9) shall be paid by the licensed insurer.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(11) The Authority shall serve a copy of any report furnished under subsection (9) on the liquidator.

[16/2011 wef 01/05/2011]

(12) Notwithstanding any written law or rule of law, where a company which is carrying on or has carried on insurance or insurance broking business in Singapore is being wound up, the Authority shall, subject to such modifications as may be necessary, have the same

powers and rights as a creditor of the company under the Companies Act (Cap. 50) including the right to appear and be heard before a Court in any proceedings in the winding up.

[16/2011 wef 01/05/2011]

(13) Without prejudice to subsection (12) and notwithstanding any written law or rule of law, where a company which is carrying on or has carried on insurance or insurance broking business in Singapore is being wound up, its liquidator (whether appointed under the Companies Act or, in the case of a foreign company, appointed at its place of incorporation or origin) shall give the Authority such information as the Authority may from time to time require about the affairs of the company or the winding up.

[16/2011 wef 01/05/2011]

(14) Any liquidator who —

- (a) without reasonable excuse, fails to comply with subsection (7) or (13); or
- (b) in purported compliance with subsection (13), knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(15) The Authority shall be a party to any proceedings under the Companies Act relating to the winding up of the affairs of an insurer licensed under this Act or an insurance broker registered under this Act, and the liquidator in such a winding up shall give the Authority such information as it may from time to time require about the affairs of the insurer or insurance broker, as the case may be.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(16) For the purposes of any proceedings under the Companies Act for the winding up of the affairs of such an insurer by the Court, the

contingent and prospective liabilities of the insurer in respect of policies shall, in determining whether it is unable to pay its debts, be estimated in accordance with such rules as may be prescribed.

[16/2011 wef 01/05/2011]

(17) If the Authority submits to the Rules Committee, established under any written law relating to the courts, proposals for making special provision under section 410 of the Companies Act in relation to insurers licensed under this Act or any description of such insurers, the Rules Committee may by rules made under that section give effect to the proposals, either as submitted or subject to such modifications as the Rules Committee may think fit.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(18) Proposals under subsection (17), and rules made by virtue thereof, may provide for modifying or excluding, in relation to insurers so licensed, provisions of Part X of the Companies Act (Cap. 50) requiring the holding of meetings or otherwise relating to the procedure in a winding up.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(19) In the winding up of the affairs of a licensed insurer, section 327(2) of the Companies Act (which applies bankruptcy rules in the winding up of insolvent companies), shall not apply to the valuation of liabilities in respect of policies; but in any such winding up, whether the insurer is insolvent or not, those liabilities shall be estimated in accordance with the rules prescribed under subsection (16) and, as regards matters not fixed by the rules, on a basis approved by the Court.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(20) In a members' voluntary winding up, the basis to be adopted as regards matters not fixed by the rules may be approved by the Authority instead of by the Court.

[16/2011 wef 01/05/2011]

(21) References in this section to a licensed insurer shall extend also to a Singapore insurer which has ceased to be so licensed but remains

under any liability in respect of Singapore policies or offshore policies.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(22) In this section —

“Court” means the High Court or a Judge thereof;

“liquidator” includes a provisional liquidator;

“unregistered company” has the same meaning as in section 350 of the Companies Act.

[16/2011 wef 01/05/2011]

Special provision for insurers directed to cease insurance business

49FP.—(1) Where the Authority gives an insurer a direction under section 41(2)(a)(v) by reason of the insolvency of the fund maintained by the insurer under this Act for either class of insurance business, the affairs of the insurer may be wound up by the Court under the Companies Act as if it had suspended its business for a whole year or, in the case of a winding up under Division 5 of Part X of that Act, as if it had ceased to carry on business.

[16/2011 wef 01/05/2011]

(2) Where the Authority gives an insurer a direction under section 41(2)(a)(v) but, on an application for the affairs of the insurer to be wound up by the Court, the Court is satisfied that the insurer will be able to pay its debts in full within 12 months or such longer period as the Court thinks reasonable, the Court may (if it thinks fit) order the affairs of the insurer to be wound up only as regards the insurance fund maintained for the class of insurance business to which the direction relates.

[16/2011 wef 01/05/2011]

(3) An order made under subsection (2) for a limited winding up shall be of the same effect as an order for the affairs of the insurer to be wound up generally, except in so far as this section otherwise provides.

[16/2011 wef 01/05/2011]

(4) Where such an order is made, the powers of the liquidator shall be exercisable only for the purpose of applying the assets of the relevant insurance fund in discharging the liabilities to which they are applicable, together with the costs, charges and expenses incurred in the winding up.

[16/2011 wef 01/05/2011]

(5) The insurer shall, from time to time, as the Court may direct, make such additions to those assets as are required to secure that they are sufficient for the purpose or shall, if the Court so directs, discharge any of those liabilities out of other assets.

[16/2011 wef 01/05/2011]

(6) In the winding up of the affairs of an insurer under such an order, the Companies Act (Cap. 50) shall have effect subject to the following modifications:

- (a) section 250 (or, as the case may be, section 352) of that Act and other sections so far as they relate to contributories shall not apply;
- (b) section 258 shall apply after, as it applies before, the making of the winding up order, and section 262(3) of that Act shall not apply; and
- (c) sections 259, 260, 319, 329, 330 and 332 to 335 of that Act shall not apply.

[16/2011 wef 01/05/2011]

(7) Where such an order is made, the Court may, at any time, on the application of the liquidator or of any person who might apply for the affairs of the insurer to be wound up —

- (a) substitute an order for the affairs of the insurer to be wound up generally; and
- (b) give such directions as the Court thinks fit as to matters in progress under the previous order,

and, subject to any such directions, the winding up shall, for all purposes connected with the substituted order, be deemed to have commenced at the time of the application for that order.

[16/2011 wef 01/05/2011]

(8) In this section, “Court” means the High Court or a Judge thereof.

[16/2011 wef 01/05/2011]

Co-operative societies doing insurance business

49FQ.—(1) Where a co-operative society is a licensed insurer, no proceedings for the transfer of assets and liabilities, dissolution or winding up of the co-operative society shall be taken under sections 74, 75 and 83 to 89 of that Act.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(2) Notwithstanding section 101 of the Co-operative Societies Act, any co-operative society which is a licensed insurer shall be deemed to be an unregistered company within the meaning of Division 5 of Part X of the Companies Act (Cap. 50) and may be wound up by the Court under the Companies Act (as modified by this section) and the applicable provisions of this Part.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(3) In any such winding up —

- (a) in applying the provisions of the Companies Act, any reference to the Registrar under the Companies Act shall be read as reference to the Registrar under the Co-operative Societies Act;
- (b) notwithstanding subsection (2), section 344 of the Companies Act shall be applicable and in applying this provision, any reference to the register under the Companies Act shall be read as a reference to the register of societies referred to in section 10A(1)(a) of the Co-operative Societies Act;
- (c) upon winding up of the society, the assets shall be applied first to the cost of liquidation, then to the discharge of the liabilities of the society (where the priority of claim set out in section 49FR shall apply to unsecured liabilities of the licensed insurer), then to the payment of the share capital or subscription capital, and then, provided that the by-laws of the society permit, to the payment of a dividend or patronage refund at a rate not exceeding that laid down in the Co-operative Societies Rules 2009 (G.N. No. S 349/2009) or in the by-laws for any period

during which no dividend or patronage refund was in fact paid; and

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- (d) any moneys remaining after the application of the funds to the purposes specified in paragraph (c), shall be carried to the Co-operative Societies Liquidation Account kept by the Registrar and section 89(4) and (5) of the Co-operative Societies Act (Cap. 62) shall apply to deal with the moneys in the Co-operative Societies Liquidation Account.

[16/2011 wef 01/05/2011]

- (4) In this section, “Court” means the High Court or a Judge thereof.

[16/2011 wef 01/05/2011]

Priority of claims of policy owners and specified liabilities

49FR.—(1) Where a licensed insurer becomes unable to meet its obligations or becomes insolvent, the assets of the licensed insurer subject to section 17(11), shall be available to meet all liabilities in Singapore of the licensed insurer specified in subsection (3), including liabilities which are properly attributable to the business to which an insurance fund relates.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(2) The liabilities in Singapore of the licensed insurer specified in subsection (3) shall have priority over all unsecured liabilities of the insurer other than the preferential debts specified in section 328(1) of the Companies Act (Cap. 50).

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(3) Notwithstanding the provisions of any written law or any rule of law relating to the winding up of companies, in the event of a winding up of a licensed insurer, the following liabilities in Singapore of the licensed insurer (which include liabilities which are properly attributable to the business to which an insurance fund relates) shall rank in the following order of priority:

- (a) firstly, any levy due and payable by the licensed insurer under the Deposit Insurance and Policy Owners’ Protection Schemes Act 2011;

- (b) secondly, protected liabilities incurred by the licensed insurer, up to the amount paid or payable out of any of the PPF Funds by the PPF Agency under the Deposit Insurance and Policy Owners' Protection Schemes Act 2011 in respect of such protected liabilities and, if applicable, the amount paid or payable out of any of the PPF Funds by the PPF Agency under the Deposit Insurance and Policy Owners' Protection Schemes Act 2011 to fund any transfer or run-off of the business of the licensed insurer;
- (c) thirdly, any liabilities incurred by the licensed insurer in respect of direct policies which are not protected under the Deposit Insurance and Policy Owners' Protection Schemes Act 2011;
- (d) fourthly, any liabilities incurred by the licensed insurer in respect of reinsurance policies.

[16/2011 wef 01/05/2011]

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- (4) The liabilities in each class specified in subsection (3) shall —
 - (a) rank in the order specified therein but as between liabilities of the same class shall rank equally between themselves; and
 - (b) be paid in full unless the assets of the licensed insurer are insufficient to meet them in which case they shall abate in equal proportions between themselves.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(5) In this section, “protected liabilities” has the same meaning as in the Deposit Insurance and Policy Owners' Protection Schemes Act 2011.

[16/2011 wef 01/05/2011]

Division 6 — Miscellaneous

Modification of law of insolvency

49FS. Notwithstanding anything to the contrary contained in this Act, the Bankruptcy Act (Cap. 20) and the Companies Act (Cap. 50),

any sale, transfer, assignment or other disposition of any property or business of the licensed insurer pursuant to section 49FF, shall not be reversed, repaid or set aside and no order shall be made by any court for the rectification or stay of such sale, transfer, assignment or other disposition.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

Power to obtain information under this Part

49FT.—(1) The Minister or the Authority may require a person to furnish, within the period and in the manner specified by the Minister or the Authority, any information that the Minister or the Authority may reasonably require for the discharge of his or its duties or functions, or the exercise of his or its powers, under this Part.

(2) Any person who —

- (a) without reasonable excuse, fails to comply with any requirement under subsection (1); or
- (b) in purported compliance with any requirement under subsection (1), knowingly or recklessly furnishes any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

Cessation of moratorium, etc., under this Part

49FU.—(1) The Minister may, by order published in the *Gazette*, direct that section 49FH, 49FK(13) or 49FN(13), or any provision thereof, shall cease to apply to any licensed insurer, any business (or any part thereof) of any licensed insurer or any share in any licensed insurer and on the date specified by the Minister in the order, the relevant section, or the provision thereof, shall cease to apply to the

licensed insurer, the business (or the part thereof) of the licensed insurer or the share in the licensed insurer, as the case may be.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(2) In this section, “business” includes affairs, property, right, obligation and liability.

[16/2011 wef 01/05/2011]

Recovery of fees, expenses, etc.

49FV. There shall be recoverable as a civil debt due to the Authority from a licensed insurer concerned, any remuneration and expenses payable by the licensed insurer to —

- (a) a statutory manager appointed under section 41; and
- (b) any person appointed to perform any independent assessment under this Part.

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

Regulations for this Part

49FW.—(1) The Minister may make such regulations as may be necessary or expedient for carrying out the purposes and provisions of this Part and for prescribing anything that may be required to be prescribed under this Part.

[Act 11 of 2013 wef 18/04/2013]

(2) Without prejudice to the generality of subsection (1), regulations made under this section may —

- (a) restrict, or impose conditions on, any transfer of only part (but not the whole) of the business (as defined in section 49FE) of a transferor under Division 2;
- (b) provide for either or both of the following:
 - (i) that any arrangement is exempted from any provision of this Part;
 - (ii) that the Minister or the Authority shall not exercise any power under this Part in relation to any arrangement;

- (c) prescribe —
- (i) any set-off arrangement, netting arrangement or other type of arrangement as an arrangement referred to in paragraph (b)(i) or (ii);
 - (ii) for any arrangement referred to in paragraph (b)(i), each provision of this Part which that arrangement is exempted from; and
 - (iii) for any arrangement referred to in paragraph (b)(ii), each power which the Minister or the Authority shall not exercise in relation to that arrangement;
- (d) provide for any transaction to be void or voidable, or for any other consequence (including a consequence affecting any business, affairs, property, right, obligation, liability or power of any person under this Part, or affecting the operation of any provision of this Part) to arise, if any specified provision of the regulations is contravened;
- (e) provide that any contravention of any specified provision of the regulations shall be an offence punishable —
- (i) in the case of an individual, with a fine not exceeding \$125,000 or with imprisonment for a term not exceeding 3 years or with both and, in the case of a continuing offence, with a further fine not exceeding \$12,500 for every day or part thereof during which the offence continues after conviction; or
 - (ii) in any other case, with a fine not exceeding \$250,000 and, in the case of a continuing offence, with a further fine not exceeding \$25,000 for every day or part thereof during which the offence continues after conviction; and
- (f) exempt any person or class of persons from all or any of the provisions of this Part and the regulations, subject to such conditions or restrictions as may be prescribed.

[Act 11 of 2013 wef 18/04/2013]

(3) All regulations made under this section shall be presented to Parliament as soon as possible after publication in the *Gazette*.

[Act 11 of 2013 wef 18/04/2013]

(4) In this section —

“netting arrangement” means an arrangement under which 2 or more claims or obligations can be converted into a net claim or obligation, and includes a close-out netting arrangement (under which actual or theoretical debts are calculated during the course of a contract for the purpose of enabling them to be set-off against each other or to be converted into a net debt);

“set-off arrangement” means an arrangement under which 2 or more debts, claims or obligations can be set-off against each other.

[Act 11 of 2013 wef 18/04/2013]

PART IIIB

APPEALS

Appeals to Minister

49G.—(1) Where an appeal is made to the Minister under this Act, the Minister may confirm, vary or reverse the decision of the Authority on appeal, or give such directions in the matter as he thinks fit, and the decision of the Minister shall be final.

[41/2001]

(2) Where an appeal is made to the Minister under this Act (other than sections 8(7), 34(6) and 35X(6)), the Minister shall, within 28 days of his receipt of the appeal, constitute an Appeal Advisory Committee comprising not less than 3 members of the Appeal Advisory Panel and refer that appeal to the Appeal Advisory Committee.

[41/2001]

[Act 11 of 2013 wef 18/04/2013]

(3) The Appeal Advisory Committee shall submit to the Minister a written report on the appeal referred to it under subsection (2) and may make such recommendations as it thinks fit.

[41/2001]

(4) The Minister shall consider the report submitted under subsection (3) in making his decision under subsection (1) but he shall not be bound by the recommendations in the report.

[41/2001]

Appeal Advisory Committees

49H.—(1) For the purposes of enabling Appeal Advisory Committees to be constituted under section 49G, the Minister shall appoint a panel (referred to in this Part as the Appeal Advisory Panel) comprising such members from the financial services industry and the public and private sectors as the Minister may appoint.

[41/2001]

(2) A member of the Appeal Advisory Panel shall be appointed for a term of not more than 2 years and shall be eligible for re-appointment.

[41/2001]

[23/2003 wef 01/01/2004]

(3) An Appeal Advisory Committee shall have the power, in the exercise of its functions, to inquire into any matter or thing related to the financial services industry and, for this purpose, may summon any person to give evidence on oath or affirmation or produce any document or material necessary for the purpose of the inquiry.

[41/2001]

(4) Nothing in subsection (3) shall compel the production by an advocate and solicitor of a document or other material containing any privileged communication made by or to him in that capacity or authorise the taking of any such document or other material which is in his possession.

[41/2001]

(5) An advocate and solicitor who refuses to produce any document or other material referred to in subsection (4) shall nevertheless be obliged to give the name and address (if he knows them) of the person to whom, or by or on behalf of whom, the privileged communication was made.

[41/2001]

(6) For the purposes of this Act, every member of an Appeal Advisory Committee —

- (a) shall be deemed to be a public servant for the purposes of the Penal Code (Cap. 224); and
- (b) in case of any suit or other legal proceedings brought against him for any act done or omitted to be done in the execution of his duty under this Part, shall have the like protection and privileges as are by law given to a Judge in the execution of his office.

[41/2001]

(7) Every Appeal Advisory Committee shall have regard to the interest of the public, the protection of policy owners and the safeguarding of sources of information.

[41/2001]

(8) Subject to the provisions of this Part, an Appeal Advisory Committee may regulate its own procedure and shall not be bound by the rules of evidence.

[41/2001]

Disclosure of information

49I. Nothing in this Act shall require the Minister or any public servant to disclose facts which he considers to be against the public interest to disclose.

[41/2001]

Regulations for purposes of this Part

49J.—(1) The Minister may make regulations for the purposes and provisions of this Part and for the due administration thereof.

[23/2003 wef 01/01/2004]

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for or with respect to —

- (a) the appointment of members to, and procedures of, the Appeal Advisory Panel and Appeal Advisory Committees;
- (b) the form and manner in which an appeal to the Minister under this Act shall be made;
- (c) the fees to be paid in respect of any appeal made to the Minister under this Act, including the refund or remission, whether in whole or in part, of such fees;

- (d) the remuneration of the members of the Appeal Advisory Panel and Appeal Advisory Committees; and
- (e) all matters and things which by this Part are required or permitted to be prescribed or which are necessary or expedient to give effect to the provisions of this Part.

[23/2003 wef 01/01/2004]

PART IIIC

NOMINATION OF BENEFICIARIES

Interpretation of this Part

49K. In this Part, unless the context otherwise requires —

“Central Provident Fund” means the Central Provident Fund established under section 6 of the Central Provident Fund Act (Cap. 36);

“Central Provident Fund Board” means the Central Provident Fund Board constituted under section 3 of the Central Provident Fund Act;

“minimum sum” has the same meaning as in section 2(1) of the Central Provident Fund Act;

“relevant policy” means any life policy or accident and health policy, whether issued before, on or after the date of commencement of section 2 of the Insurance (Amendment) Act 2009, which —

(a) is issued by a licensed insurer;

[Act 11 of 2013 wef 18/04/2013]

(b) is governed by Singapore law;

(c) provides death benefits;

(d) insures the life of the policy owner;

[Act 11 of 2013 wef 18/04/2013]

(e) is not the subject of any trust created under section 73 of the Conveyancing and Law of Property Act (Cap. 61); and

(f) is not an annuity purchased with the minimum sum under section 15(6C) of the Central Provident Fund Act;

“will” has the same meaning as in the Wills Act (Cap. 352).

[3/2009 wef 01/09/2009]

Trust nomination

49L.—(1) This section shall not apply to any relevant policy which is —

(a) issued under the Dependants’ Protection Insurance Scheme established and maintained by the Central Provident Fund Board under section 41 of the Central Provident Fund Act (Cap. 36);

[Act 11 of 2013 wef 18/04/2013]

(b) an investment made by a member of the Central Provident Fund under any scheme in accordance with any regulations made under section 77(1)(n) of the Central Provident Fund Act the proceeds or benefits (or any part thereof) of which the member is obliged to repay into the Central Provident Fund; or

[Act 11 of 2013 wef 18/04/2013]

(c) prescribed by the Authority, or of a type or description prescribed by the Authority.

[Act 11 of 2013 wef 18/04/2013]

(2) Where the policy owner of a relevant policy who has attained the age of 18 years —

(a) nominates as the beneficiary or beneficiaries under the relevant policy his spouse, his children, his spouse and children or any of them;

(b) expresses in the nomination his intention to create a trust of the policy moneys in favour of the nominee or nominees; and

(c) makes the nomination, and indicates each nominee’s portion of the policy moneys, in such manner as may be prescribed by the Authority,

the nomination shall create a trust of the policy moneys in favour of the nominee or nominees.

(3) No nomination under subsection (2) shall be valid unless it provides for the disposition of all policy moneys under the relevant policy.

(4) Subject to subsection (5), all policy moneys subject to the trust created under subsection (2) shall not form part of the estate of the policy owner or be subject to his debts.

(5) If it is proved that the relevant policy was effected, and the premiums for the relevant policy were paid, with intent to defraud the creditors of the policy owner, the creditors shall be entitled to receive out of the policy moneys a sum equal to the premiums so paid.

(6) On the death of any nominee, the nominee's interest in the policy moneys shall, subject to any encumbrance created over, or any disposition of, the nominee's interest while the nominee was alive, form part of the nominee's estate.

(7) A policy owner may revoke a nomination under subsection (2) if, and only if, the prior written consent to the revocation has been obtained from —

- (a) in a case where any trustee of the policy moneys is a person other than the policy owner —
 - (i) that trustee or, if there is more than one such trustee, any such trustee; or
 - (ii) so long as no nominee has died before the revocation —
 - (A) each nominee who has attained the age of 18 years; and
 - (B) a parent or legal guardian, not being the policy owner, of each nominee who is below the age of 18 years;
- (b) in any other case, so long as no nominee has died before the revocation —

- (i) each nominee who has attained the age of 18 years;
and
 - (ii) a parent or legal guardian, not being the policy owner,
of each nominee who is below the age of 18 years;
and
- (c) such requirements for the revocation as may be prescribed
by the Authority are satisfied.

(8) Where a nomination under subsection (2) has been revoked in
accordance with subsection (7) —

- (a) the trust created pursuant to the nomination shall be
deemed to be revoked; and
- (b) the policy owner may make a new nomination under
subsection (2) or section 49M(2).

(9) Where a nomination under subsection (2) has been made in
respect of a relevant policy, a term or condition of the relevant policy
may be varied, and an instruction of the policy owner in relation to the
relevant policy (being an instruction which may directly or indirectly
alter the benefits payable under the relevant policy) may be executed
by the licensed insurer that issued the relevant policy, if, and only if,
the prior written consent to the variation of the term or condition or to
the execution of the instruction, as the case may be, has been obtained
from —

- (a) in a case where any trustee of the policy moneys is a person
other than the policy owner —
 - (i) that trustee or, if there is more than one such trustee,
any such trustee; or
 - (ii) so long as no nominee has died before the variation of
the term or condition or the execution of the
instruction, as the case may be —
 - (A) each nominee who has attained the age of
18 years; and
 - (B) a parent or legal guardian, not being the policy
owner, of each nominee who is below the age
of 18 years; or

(b) in any other case, so long as no nominee has died before the variation of the term or condition or the execution of the instruction, as the case may be —

- (i) each nominee who has attained the age of 18 years; and
- (ii) a parent or legal guardian, not being the policy owner, of each nominee who is below the age of 18 years.

[Act 11 of 2013 wef 18/04/2013]

(10) Any purported revocation of a nomination under subsection (2) in contravention of subsection (7), and any purported variation of any term or condition of a relevant policy in contravention of subsection (9), shall be void.

(11) Where a nomination under subsection (2) has been made in respect of a relevant policy, and the licensed insurer that issued the relevant policy executes an instruction of the policy owner in contravention of subsection (9), the licensed insurer shall be liable to each nominee for the loss suffered by the nominee (if any) as a result of the execution of the instruction.

[Act 11 of 2013 wef 18/04/2013]

(12) Subject to subsection (14), the policy owner —

- (a) shall, in such manner as may be prescribed by the Authority, appoint one or more trustees of the policy moneys;
- (b) may, in such manner as may be prescribed by the Authority, from time to time, appoint one or more new trustees of the policy moneys;
- (c) may, in such manner as may be prescribed by the Authority, revoke the appointment of any trustee appointed under paragraph (a) or (b); and
- (d) may, in such manner as may be prescribed by the Authority, make provision for —
 - (i) the appointment of one or more new trustees of the policy moneys; and

- (ii) the revocation of the appointment of any trustee appointed under paragraph (a) or (b) or pursuant to a provision under sub-paragraph (i).

(13) Subject to subsection (14), on or after the death of the policy owner, the High Court may appoint one or more new trustees of the policy moneys if —

- (a) there is no trustee of the policy moneys; or
- (b) it is expedient to do so.

(14) No individual shall be appointed a trustee of policy moneys under subsection (12)(a) or (b) or (13), or pursuant to a provision under subsection (12)(d)(i), unless he has attained the age of 18 years; and any appointment of a trustee of policy moneys in contravention of this subsection shall be void.

(15) Where, in respect of a relevant policy issued by a licensed insurer, a trust of the policy moneys has been created pursuant to a nomination under subsection (2), the relevant policy shall vest, in trust for the nominees, in the trustee or trustees of the policy moneys appointed —

- (a) under subsection (12)(a) or (b) or (13); or
- (b) pursuant to a provision under subsection (12)(d)(i),

when the licensed insurer has been given notice of the appointment in such manner as may be prescribed by the Authority.

[3/2009 wef 01/09/2009]

[Act 11 of 2013 wef 18/04/2013]

Revocable nomination

49M.—(1) This section shall not apply to any relevant policy in respect of which any nomination made by the policy owner under section 49L(2) is not revoked in accordance with section 49L(7).

(2) Subject to subsection (3), the policy owner of a relevant policy who has attained the age of 18 years —

- (a) may nominate any person as a beneficiary of the whole or any portion of the death benefits under the relevant policy; and

- (b) if he does so, shall make the nomination and indicate each nominee's portion of the death benefits in such manner as may be prescribed by the Authority.
- (3) No nomination under subsection (2) shall be valid unless it provides for the disposition of all death benefits under the relevant policy.
- (4) A policy owner may revoke a nomination under subsection (2) at any time in such manner as may be prescribed by the Authority.
- (5) Where the policy owner of a relevant policy has made a nomination under subsection (2), and any nominee dies before the policy owner —
- (a) if there is no surviving nominee, the nomination shall be deemed to be revoked;
- (b) if there is only one surviving nominee, the nomination shall be deemed to be varied by adding, to that surviving nominee's portion of the death benefits under the policy, the deceased nominee's portion of the death benefits under the policy; and
- (c) if there is more than one surviving nominee, the nomination shall be deemed to be varied by adding, to each surviving nominee's portion of the death benefits under the policy, a share of the deceased nominee's portion of the death benefits under the policy, such share to be calculated as follows:

$$\frac{A}{B} \times C,$$

where A is that surviving nominee's original portion of the death benefits under the policy (as set out in the nomination);

B is the aggregate of all the surviving nominees' original portions of the death benefits under the policy (as set out in the nomination); and

C is the deceased nominee's portion of the death benefits under the policy.

(6) For the purposes of subsection (5), where the policy owner and one or more of the nominees die in circumstances rendering it uncertain which of them survived the other or others, then in the absence of any order of the court determining otherwise —

- (a) such deaths shall be presumed to have occurred in order of seniority; and
- (b) accordingly, the younger shall be deemed to have survived the elder.

(7) A nomination made by the policy owner of a relevant policy under subsection (2) shall be deemed to be revoked if —

- (a) the policy owner assigns, encumbers or otherwise deals with the relevant policy or any interest under the relevant policy;
- (b) after the making of the nomination, the policy owner makes a will in accordance with the Wills Act (Cap. 352) which —
 - (i) provides for the disposition of all death benefits under the relevant policy; and
 - (ii) specifies such particulars of the relevant policy as may be prescribed by the Authority; or
- (c) after the making of the nomination, the policy owner makes another nomination under subsection (2) or a nomination under section 49L(2).

(8) Notwithstanding anything in the Wills Act, the Intestate Succession Act (Cap. 146) and any rule of law relating to the distribution of estates, but subject to section 57 of the Probate and Administration Act (Cap. 251), where the policy owner of a relevant policy has made one or more nominations under subsection (2) and one or more wills in accordance with the Wills Act —

- (a) if the last nomination is not and is not deemed to be revoked, the death benefits under the relevant policy shall be distributed in accordance with the last nomination;
- (b) if the last nomination is or is deemed to be revoked, and the last will is not revoked, the death benefits under the relevant

policy shall be distributed in accordance with the last will;
or

- (c) if the last nomination is or is deemed to be revoked, and the last will is revoked, the death benefits under the relevant policy shall be distributed in accordance with the Intestate Succession Act.

(9) Notwithstanding anything in the Intestate Succession Act and any rule of law relating to the distribution of estates, but subject to section 57 of the Probate and Administration Act, where the policy owner of a relevant policy who has made one or more nominations under subsection (2) dies intestate —

- (a) if the last nomination is not and is not deemed to be revoked, the death benefits under the relevant policy shall be distributed in accordance with the last nomination; or
- (b) if the last nomination is or is deemed to be revoked, the death benefits under the relevant policy shall be distributed in accordance with the Intestate Succession Act.

[3/2009 wef 01/09/2009]

Register of nominees

49N.—(1) Every licensed insurer shall maintain, in such manner as may be prescribed by the Authority and in accordance with such directions as may be issued by the Authority, a register of every person —

- (a) who has been nominated under section 49L(2) or 49M(2) by the policy owner of a relevant policy issued by the licensed insurer; and
- (b) in respect of whom the licensed insurer has received written notice of the nomination in such manner as may be prescribed by the Authority for the purposes of this subsection.

[Act 11 of 2013 wef 18/04/2013]

(2) Where —

- (a) any person nominated under section 49L(2) has been registered by a licensed insurer under subsection (1);

- (b) the nomination of that person has been revoked under section 49L(7); and
- (c) the licensed insurer has received written notice of the revocation of the nomination in such manner as may be prescribed by the Authority for the purposes of this subsection,

the licensed insurer shall record the revocation of the nomination under section 49L(7) in its register maintained under subsection (1).

[Act 11 of 2013 wef 18/04/2013]

(3) Where —

- (a) any person nominated under section 49M(2) has been registered by a licensed insurer under subsection (1);
- (b) the nomination of that person has been or is deemed to be revoked; and
- (c) the licensed insurer has received written notice of the revocation of the nomination in such manner as may be prescribed by the Authority for the purposes of this subsection,

the licensed insurer shall record the revocation of the nomination in its register maintained under subsection (1).

[Act 11 of 2013 wef 18/04/2013]

Relevant policies issued by co-operative society

49O.—(1) Where the licensed insurer of any relevant policy is a co-operative society, and the policy owner of that relevant policy —

- (a) has not, before the date of commencement of section 2 of the Insurance (Amendment) Act 2009, made any nomination under section 45(1) of the Co-operative Societies Act in relation to that relevant policy; or
- (b) has, before that date, revoked every nomination made under section 45(1) of the Co-operative Societies Act in relation to that relevant policy,

nothing in the Co-operative Societies Act shall, on or after that date, apply to that relevant policy or to any share or interest in any policy moneys under that relevant policy.

[Act 11 of 2013 wef 18/04/2013]

(2) Where the licensed insurer of any relevant policy is a co-operative society, and on or after the date of commencement of section 2 of the Insurance (Amendment) Act 2009 the policy owner of that relevant policy —

- (a) revokes the last subsisting nomination made by him under section 45(1) of the Co-operative Societies Act in relation to that relevant policy; or
- (b) makes any nomination under section 49L(2) or 49M(2) in relation to that relevant policy, whether or not there is any subsisting nomination made by him under section 45(1) of the Co-operative Societies Act in relation to that relevant policy,

nothing in the Co-operative Societies Act shall apply, on or after the date the policy owner revokes the last subsisting nomination under section 45(1) of the Co-operative Societies Act or makes the nomination under section 49L(2) or 49M(2), as the case may be, to the relevant policy or to any share or interest in any policy moneys under that relevant policy.

[3/2009 wef 01/09/2009]

[Act 11 of 2013 wef 18/04/2013]

Regulations for purposes of this Part

49P.—(1) The Authority may make regulations for the purposes of this Part.

(2) Without prejudice to the generality of subsection (1), such regulations may —

- (a) prescribe anything which may be prescribed by the Authority under this Part; and
- (b) make provision for the exercise of the court's powers under section 20 of the Mental Capacity Act 2008 (Act 22 of 2008) in relation to —

- (i) the making, on a person's behalf, of any nomination under section 49L(2) or 49M(2); and
- (ii) where any nomination under section 49L(2) or 49M(2) has been made by a person or by the court on behalf of a person, the revoking, on the person's behalf, of that nomination under section 49L(7) or 49M(4), as the case may be.

[3/2009 wef 01/09/2009]

PART IV

MISCELLANEOUS AND GENERAL

Division 1 — Administration and enforcement

Appointment of assistants

50.—(1) Subject to subsection (1A), the Authority may appoint any person to exercise any of its powers or perform any of its functions or duties under this Act, either generally or in any particular case, except the power to make subsidiary legislation.

[41/2001]

[23/2003 wef 01/01/2004]

(1A) The Authority may, by notification published in the *Gazette*, appoint one or more of its officers to exercise the power to grant an exemption to any person (not being an exemption granted to a class of persons) under a provision of this Act specified in the Second Schedule, or to revoke any such exemption.

[23/2003 wef 01/01/2004]

(2) Any person appointed by the Authority under subsection (1) shall be deemed to be a public servant for the purposes of the Penal Code (Cap. 224).

[41/2001]

51. [Repealed by Act 24/2003 wef 01/01/2004]

Exemption

52.—(1) The Authority may, by regulations, exempt any person or class of persons from all or any of the provisions of this Act, subject to such terms or conditions as may be prescribed.

[41/2001]

[Act 11 of 2013 wef 18/04/2013]

(1A) Without prejudice to the generality of subsection (1), the Authority may make regulations to exempt any person or class of persons from section 3 or 35W and, in making these regulations, the Authority may make such provisions as it thinks fit to regulate the person or class of persons, whether by modification of provisions of this Act or by imposing such other requirements or restrictions as may be prescribed.

[23/2003 wef 01/01/2004]

(2) The Authority may, on the application of any person, exempt the person from all or any of the provisions of this Act or any direction by notice in writing if the Authority considers it appropriate to do so in the circumstances of the case.

[41/2001]

[23/2003 wef 01/01/2004]

(3) An exemption under subsection (2) —

(a) may be granted subject to such terms or conditions as the Authority may specify by notice in writing; and

(b) need not be published in the *Gazette*.

[41/2001]

(4) The Authority may at any time —

(a) revoke any exemption granted under this section; or

(b) add to, vary or revoke any term or condition prescribed under subsection (1), or imposed under subsection (3) by notice in writing, or prescribe or impose a term or condition where none had been prescribed or imposed earlier.

[Act 11 of 2013 wef 18/04/2013]

Statistics

53.—(1) Without prejudice to the generality of section 64(1), regulations may provide —

- (a) for the collection by or on behalf of the Authority, at such intervals or on such occasions as may be prescribed, of statistical information as to such matters relevant to insurance as may be prescribed; and
- (b) for the collection and use of statistical information for any purpose, whether or not connected with insurance.

[11/86; 41/2001]

(2) Without prejudice to the generality of section 64(1) and (2), the Authority may prescribe or specify in directions the form or manner in which statistical information shall be furnished by Singapore insurers or insurance intermediaries to the Authority.

[23/2003 wef 01/01/2004]

(3) No use shall be made of any information obtained by or on behalf of the Authority by virtue only of this section except in a form which does not disclose the affairs of any particular person.

Service of notice, etc.

54.—(1) Unless otherwise expressly provided in this Act, any notice, order or document required or authorised by this Act to be given to or served on any person may be given to or served on the person —

- (a) by delivering it to the person or to some adult member or employee of his family or household at his last known place of residence;
- (b) by leaving it at his usual or last known place of residence or business in an envelope addressed to him;
- (c) by sending it by registered post addressed to the person at his usual or last known place of residence or business; or
- (d) in the case of a body corporate, a partnership or a body of persons —
 - (i) by delivering it to the secretary or other like officer of the body corporate, partnership or body of persons at its registered office or principal place of business; or

- (ii) by sending it by registered post addressed to the body corporate, partnership or body of persons at its registered office or principal place of business.

[41/2001]

(2) Any notice, order or document sent by registered post to any person in accordance with subsection (1) shall be deemed to be duly served on the person to whom the letter is addressed at the time when the letter would, in the ordinary course of post, be delivered.

[41/2001]

(3) When proving service of the notice, order or document, it shall be sufficient to prove that the envelope containing the notice, order or document was properly addressed, stamped and posted by registered post.

[41/2001]

Electronic service

54A.—(1) The Authority may provide an electronic service for the service of any document that is required or authorised by this Act to be given to or served on any person.

[Act 11 of 2013 wef 18/04/2013]

(2) For the purposes of the electronic service, the Authority may assign to any person —

- (a) an authentication code; and
- (b) an account with the electronic service.

[Act 11 of 2013 wef 18/04/2013]

(3) Notwithstanding section 54, where any person has given his consent for any document to be served on him through the electronic service, the Authority may serve the document on that person by transmitting an electronic record of the document to that person's account with the electronic service.

[Act 11 of 2013 wef 18/04/2013]

(4) Where a person has given his consent for a document to be served on him through the electronic service, the document shall be deemed to have been served at the time when an electronic record of the document enters his account with the electronic service.

[Act 11 of 2013 wef 18/04/2013]

(5) Notwithstanding any other written law, in any proceedings under this Act —

- (a) an electronic record of any document that was served through the electronic service; or
- (b) any copy or print-out of that electronic record,

shall be admissible as evidence of the facts stated or contained therein if that electronic record, copy or print-out —

- (i) is certified by the Authority to contain all or any information served through the electronic service in accordance with this section; and
- (ii) is duly authenticated in the manner specified in subsection (7).

[Act 11 of 2013 wef 18/04/2013]

(6) For the avoidance of doubt —

- (a) an electronic record of any document that was served through the electronic service; or
- (b) any copy or print-out of that electronic record,

shall not be inadmissible in evidence merely because the document was served without the delivery of any equivalent document or counterpart in paper form.

[Act 11 of 2013 wef 18/04/2013]

(7) For the purposes of this section, a certificate —

- (a) giving the particulars of —
 - (i) any person whose authentication code was used to serve the document; and
 - (ii) any person or device involved in the production or transmission of the electronic record of the document, or the copy or print-out thereof;
- (b) identifying the nature of the electronic record or copy or print-out thereof; and
- (c) purporting to be signed by the Authority or by a person occupying a responsible position in relation to the operation of the electronic service at the relevant time,

shall be sufficient evidence that the electronic record, copy or print-out has been duly authenticated, unless the court, in its discretion, calls for further evidence on this issue.

[Act 11 of 2013 wef 18/04/2013]

(8) Where the electronic record of any document, or a copy or print-out of that electronic record, is admissible under subsection (5), it shall be presumed, until the contrary is proved, that the electronic record, copy or print-out accurately reproduces the contents of that document.

[Act 11 of 2013 wef 18/04/2013]

(9) The Authority may make regulations which are necessary or expedient for carrying out the purposes of this section, including regulations prescribing the procedure for the use of the electronic service and the procedure in circumstances where there is a breakdown or interruption of the electronic service.

[Act 11 of 2013 wef 18/04/2013]

(10) In this section, unless the context otherwise requires —

“account with the electronic service”, in relation to any person, means a computer account within the electronic service which is assigned by the Authority to that person for the storage and retrieval of electronic records relating to that person;

“authentication code”, in relation to any person, means an identification or identifying code, a password or any other authentication method or procedure which is assigned to that person for the purposes of identifying and authenticating the access to and use of the electronic service by that person;

“document” includes notice and order;

“electronic record” has the same meaning as in section 2 of the Electronic Transactions Act (Cap. 88).

[Act 11 of 2013 wef 18/04/2013]

General provisions as to offences

55.—(1) Any person who —

(a) signs any document lodged with the Authority under section 36, 37 or 49FD(1)(a); or

- (b) furnishes the Authority with any information under or for the purposes of any other provision of this Act,

shall use due care to secure that the document or information is not false in any material particular; and if he does not use due care in this behalf and the document or information is false in a material particular, he shall be guilty of an offence.

[11/86; 32/93; 41/2001]

[16/2011 wef 01/05/2011]

[Act 11 of 2013 wef 18/04/2013]

(1A) Any person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$125,000 or to imprisonment for a term not exceeding 3 years or to both; or
- (b) in any other case, to a fine not exceeding \$250,000.

[Act 11 of 2013 wef 18/04/2013]

(2) Any person who is guilty of any breach of a duty imposed on him by this Act or any direction issued by the Authority under section 64(2) shall be guilty of an offence and, where no penalty is expressly provided, shall be liable on conviction —

- (a) in the case of an individual, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction; or
- (b) in any other case, to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

[Act 11 of 2013 wef 18/04/2013]

(3) Where an offence under this Act is committed by any corporation, any person who, at the time of the commission of the offence, is a director, manager, secretary or other similar officer of that corporation, or is purporting to act in that capacity, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that he exercised all such diligence to

prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

[41/2001]

[23/2003 wef 01/01/2004]

(4) Where an offence under this Act is committed by a corporation, being an offence consisting in the breach of a duty imposed only on corporations, any individual guilty of the offence (whether under subsection (3) or otherwise) shall be liable on conviction to imprisonment for a term not exceeding 2 years in addition to or in substitution for any fine.

[11/86; 32/93]

[23/2003 wef 01/01/2004]

[Act 11 of 2013 wef 18/04/2013]

(5) For the purpose of any proceedings under subsection (1)(a), a document purporting to be signed by any person shall be presumed to have been signed by him, unless the contrary is proved.

(6) The Authority may, in its discretion, compound any offence under this Act which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum of money not exceeding one half of the amount of the maximum fine that is prescribed for that offence.

[Act 11 of 2013 wef 18/04/2013]

(7) The Authority may, in its discretion, compound any offence under this Act (including an offence under a provision that has been repealed) which —

(a) was compoundable at the time the offence was committed;
but

(b) has ceased to be so compoundable,

by collecting from a person reasonably suspected of having committed the offence a sum of money not exceeding one half of the amount of the maximum fine prescribed for that offence at the time it was committed.

[Act 11 of 2013 wef 18/04/2013]

(8) On payment of such sum of money referred to in subsection (6) or (7), no further proceedings shall be taken against that person in respect of the offence.

[Act 11 of 2013 wef 18/04/2013]

(9) All sums collected by the Authority under subsection (6) or (7) shall be paid into the Consolidated Fund.

[Act 11 of 2013 wef 18/04/2013]

Penalties for corporations

55A.—(1) Subject to subsection (2), where a corporation is convicted of an offence under this Act, the penalty that the court may impose is a fine not exceeding 2 times the maximum amount that the court could, but for this subsection, impose as a fine for that offence.

[41/2001]

[23/2003 wef 01/01/2004]

(2) Subsection (1) shall not apply to any offence under this Act —

- (a) in respect of the breach of a duty imposed only on corporations; or
- (b) for which different penalties are prescribed in this Act (other than section 55(4)) for individuals and for other persons found guilty of the offence.

[Act 11 of 2013 wef 18/04/2013]

(3) Where an individual is convicted of an offence under this Act by virtue of section 55(3), he shall be liable to the fine or imprisonment or both as prescribed for that offence and subsection (1) shall not apply.

[41/2001]

Jurisdiction of court

56. Notwithstanding any provision to the contrary in the Criminal Procedure Code (Cap. 68), a District Court and a Magistrate's Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of any offence under this Act.

[11/86]

Extra-territoriality of Act

56A.—(1) Where a person does an act partly in and partly outside Singapore which, if done wholly in Singapore, would constitute an offence against any provision of this Act, that person shall be guilty of that offence as if the act were carried out by that person wholly in Singapore, and may be dealt with as if the offence were committed wholly in Singapore.

[41/2001]

(2) Where —

(a) a person does an act outside Singapore which has a substantial and reasonably foreseeable effect in Singapore; and

(b) that act would, if carried out in Singapore, constitute an offence under section 3, 6, 35S or 35W,

that person shall be guilty of that offence as if the act were carried out by that person in Singapore, and may be dealt with as if the offence were committed in Singapore.

[41/2001]

(3) The Authority may, by regulations, specify the circumstances under which subsection (2) does not apply.

[41/2001]

Division 2 — Miscellaneous amendments of law

Insurable interest required for life insurances

57.—(1) A life policy insuring the life of a person which is issued by a licensed insurer shall be void unless —

(a) the person effecting the insurance has an insurable interest in the life which is insured at the time the insurance is effected;

(b) the life which is insured is that of —

(i) the person effecting the insurance;

(ii) his spouse at the time the insurance is effected;

(iii) his child or ward under the age of 18 years at the time the insurance is effected; or

- (iv) any other person on whom the person effecting the insurance is, at the time the insurance is effected, wholly or partly dependant; or
- (c) the life policy is one in respect of which all of the conditions referred to in subsection (2A) or (2B) are satisfied.

[3/2009 wef 01/03/2009]

[Act 11 of 2013 wef 18/04/2013]

(2) Where subsection (1)(a) applies, the policy moneys payable under the life policy shall not exceed the amount of the insurable interest at the time the insurance is effected.

[3/2009 wef 01/03/2009]

(2A) Section 5 of the Civil Law Act (Cap. 43) and section 62 shall not apply to a life policy, and a life policy shall not be void, if all of the following conditions are satisfied:

- (a) the life which is insured is that of the settlor of a trust;
- (b) the person effecting the insurance is the trustee of the trust;
- (c) any beneficiary of the trust —
 - (i) has an insurable interest in the life of the settlor at the time the insurance is effected; or
 - (ii) is —
 - (A) the settlor's spouse at the time the insurance is effected;
 - (B) the settlor's child or ward under the age of 18 years at the time the insurance is effected; or
 - (C) any other person on whom the settlor is, at the time the insurance is effected, wholly or partly dependant; and
- (d) the settlor consents in writing to the effecting of the insurance before it is effected.

[3/2009 wef 01/03/2009]

(2B) Section 5 of the Civil Law Act and section 62 shall not apply to a life policy, and a life policy shall not be void, if all of the following conditions are satisfied:

- (a) the life which is insured is that of a beneficiary of a trust (referred to in this subsection as the relevant beneficiary);
- (b) the person effecting the insurance is the trustee of the trust;
- (c) any beneficiary of the trust —
 - (i) has an insurable interest in the life of the relevant beneficiary at the time the insurance is effected; or
 - (ii) is —
 - (A) the relevant beneficiary's spouse at the time the insurance is effected;
 - (B) the relevant beneficiary's child or ward under the age of 18 years at the time the insurance is effected; or
 - (C) any other person on whom the relevant beneficiary is, at the time the insurance is effected, wholly or partly dependant; and
- (d) the relevant beneficiary consents in writing to the effecting of the insurance before it is effected.

[3/2009 wef 01/03/2009]

(2C) Subsections (1), (2), (2A) and (2B) shall apply to a life policy regardless of whether the proper law of the life policy is the law of Singapore.

[3/2009 wef 01/03/2009]

(3) In this section, “insuring the life of a person” means insuring the payment of money (or the equivalent) on that person's death or on the happening of any contingency dependent on the termination or continuance of that person's life, and includes granting an annuity to commence on that death or at a time to be determined by reference thereto or to any such contingency.

(4) In so far as in the case of any life policy the policy moneys do not consist wholly of a cash payment due on the death in question, the limit under this section on the amount to be paid shall be applied by reference to the value of the right to the policy moneys immediately after the death or the happening before the death of any event on which they become payable.

(5) Subsections (1)(a) and (b), (2), (3) and (4) shall not affect policies issued before 1st January 1967.

[3/2009 wef 01/03/2009]

(6) Subsections (1)(c), (2A), (2B) and (2C) shall not affect policies issued before the date of commencement of section 3 of the Insurance (Amendment) Act 2009.

[3/2009 wef 01/03/2009]

Capacity of infant to insure

58.—(1) Notwithstanding any law to the contrary, a person over the age of 10 years shall not, by reason only of his age, lack the capacity to enter into a contract of insurance; but a person under the age of 16 years shall not have the capacity to enter into such a contract except with the consent in writing of his parent or guardian.

[3/2009 wef 01/03/2009]

(2) This section shall be deemed always to have had effect.

Life policy moneys to be paid without deduction

59.—(1) Subject to section 61, any policy moneys payable under a life policy or moneys payable on the surrender of a life policy shall be paid without any deduction for sums not due under the policy or under an agreement charging them on the policy, unless the deduction is made with the consent of the person entitled to those moneys; and any provision contained in a life policy or in any agreement relating thereto shall be void, in so far as it entitles the insurer to make any such deduction without that consent.

[3/2009 wef 01/09/2009]

(2) Subsection (1) shall apply to all Singapore policies, but shall not apply to any other policy issued before 1st January 1967.

(3) In any proceedings for the recovery of policy moneys due under the life policy or of moneys payable on the surrender of a life policy, no set-off or counterclaim shall be allowed except for sums due under the policy or under an agreement charging them on the policy.

Life policies (surrenders, non-payment of premiums, paid-up policies)

60.—(1) Where a life policy, has been in force for 3 years or more, the policy owner may by notice in writing to the insurer surrender the policy and shall thereupon become entitled to receive the surrender value thereof (if any), determined in accordance with such rules as may be prescribed (but subject to any deduction for sums due under the policy or under an agreement charging them on the policy).

[30/99]

[Act 11 of 2013 wef 18/04/2013]

(2) Where a life policy has been in force for 3 years or more, the policy shall not lapse or be forfeited by reason of the non-payment of premiums, but shall have effect subject to such modifications as to the period for which it is to be in force or the benefits receivable thereunder or both as may be determined in accordance with any system adopted by the insurer and applicable to the policy; and —

- (a) in the case of a policy issued as a Singapore policy after 1st January 1967 or as an offshore policy issued after 1st January 1987, the system shall require the approval of the Authority, and shall be that adopted and applicable at the time the policy is issued, and the policy shall contain a statement in a form approved by the Authority of the effect of this subsection in relation to the policy; and
- (b) in any other case, unless the system is determined by the policy, the system shall be that which at the time when this section becomes applicable to the policy would apply to a like policy then issued as a Singapore policy.

[11/86]

(3) Where a life policy has been in force for 3 years or more, the policy owner may by notice in writing to the insurer elect to exchange the policy for a paid-up policy, which shall be a non-participating policy for an amount determined in accordance with such rules as may be prescribed, but with no other modification not required by this Act or some other written law.

(4) A policy issued in place of an earlier policy shall, for the purposes of this section (including this subsection), be treated as

having been in force since the earlier policy began to be in force; but this shall not affect the operation in relation to a policy of subsection (2)(a) or (b).

(5) Subsections (1) to (3) shall not apply —

(a) to a policy securing the grant of an annuity for a term dependent upon human life; or

(b) to a policy under which no policy moneys are necessarily payable, not being a policy which provides for the payment of policy moneys on a death after a specified period.

(6) As respects policies of any prescribed description, subsections (1), (2) and (3) shall have effect subject to such modifications as may be prescribed.

(7) The rights conferred by this section shall be in addition to, and not in derogation of, any other rights available to the policy owner under the terms of the policy or otherwise; but this section shall not be taken to confer on a policy owner any rights except against the insurer as such.

(8) This section shall apply to policies whenever issued; and, subject to subsection (5), shall extend to any Singapore policy and offshore policy.

[11/86]

Payment of living benefits or death benefits under life policy or accident and health policy, etc.

61.—(1) In any case where —

(a) the policy owner of any life policy or accident and health policy has made a nomination under section 49L(2) in respect of the policy;

(b) that nomination is not revoked in accordance with section 49L(7);

(c) the licensed insurer of the policy has received written notice of that nomination under section 49N(1)(b); and

(d) any living benefits are payable under the policy,

the licensed insurer may make a payment from the living benefits, and shall be discharged from all liability in respect of the payment, to —

- (i) in a case where any trustee of the policy moneys is a person other than the policy owner —
 - (A) that trustee, for the benefit of every nominee under that nomination; or
 - (B) if there is more than one such trustee, any such trustee, for the benefit of every nominee under that nomination; or
- (ii) in any other case —
 - (A) any nominee under that nomination who has attained the age of 18 years;
 - (B) a parent or legal guardian, not being the policy owner, of any nominee under that nomination who is below the age of 18 years; or
 - (C) the personal representatives of the estate of any nominee under that nomination who is deceased,such payment not exceeding that nominee's portion of the living benefits.

[3/2009 wef 01/09/2009]

[Act 11 of 2013 wef 18/04/2013]

(2) In any case where the policy owner of any life policy or accident and health policy dies, and death benefits are payable under the policy on his death —

- (a) if subsection (7), (8) or (9) applies in respect of the policy, the licensed insurer of the policy may make one or more payments in accordance with the applicable subsection from the death benefits under the policy, without the production of any probate or letters of administration;
[Act 11 of 2013 wef 18/04/2013]
- (b) if subsection (10) applies in respect of the policy, the licensed insurer of the policy may make one or more payments in accordance with subsections (10) and (11) from the death benefits under all such policies issued by the

licensed insurer on the deceased's life in respect of which subsection (10) applies, such payment or payments not exceeding in the aggregate the amount prescribed by the Authority for the purposes of this paragraph, without the production of any probate or letters of administration; and

[Act 11 of 2013 wef 18/04/2013]

- (c) the licensed insurer shall be discharged from all liability in respect of each such payment.

[3/2009 wef 01/03/2009]

[Act 11 of 2013 wef 18/04/2013]

(3) If, in any case referred to in subsection (2), estate duty is payable in Singapore on any death benefits referred to in that subsection, the licensed insurer may, notwithstanding section 43(2) of the Estate Duty Act (Cap. 96), make one or more payments in accordance with subsections (10) and (11) from the death benefits under all such policies issued by the licensed insurer (such payment or payments not exceeding in the aggregate the amount prescribed by the Authority for the purposes of this subsection) without the death benefits having been included in any schedule or certificate referred to in section 43(2) of that Act.

[3/2009 wef 01/03/2009]

[Act 11 of 2013 wef 18/04/2013]

(4) If, as a consequence of making any payment under subsection (3), the aggregate of all payments made under that subsection will exceed the amount prescribed by the Authority for the purposes of this subsection, the licensed insurer shall, before making the first-mentioned payment, give written notice to the Commissioner of Estate Duties of such particulars as the Commissioner may require.

[3/2009 wef 01/03/2009]

[Act 11 of 2013 wef 18/04/2013]

(5) Subsection (3) shall apply in relation to death benefits under policies of which the deceased was not the policy owner at his death as it applies in relation to any death benefits referred to in subsection (2).

[3/2009 wef 01/03/2009]

(6) Where the payment or payments allowed under subsection (3) on account of any death benefits have been made, the licensed insurer may, before paying the balance of such death benefits to one or more

relevant persons according to their entitlements, apply the whole or any part of the death benefits to pay any unpaid estate duty payable on the death of the insured.

[3/2009 wef 01/03/2009]

[Act 11 of 2013 wef 18/04/2013]

(7) Where —

- (a) the policy owner of a policy referred to in subsection (2) has made a nomination under section 49L(2) in respect of the policy;
- (b) that nomination is not revoked in accordance with section 49L(7); and
- (c) the licensed insurer of the policy has received written notice of that nomination under section 49N(1)(b),

the licensed insurer may make a payment under subsection (2)(a) to —

- (i) in a case where any trustee of the policy moneys is a person other than the policy owner —
 - (A) that trustee, for the benefit of every nominee under that nomination; or
 - (B) if there is more than one such trustee, any such trustee, for the benefit of every nominee under that nomination; or
- (ii) in any other case —
 - (A) any nominee under that nomination who has attained the age of 18 years;
 - (B) a parent or legal guardian, not being the policy owner, of any nominee under that nomination who is below the age of 18 years; or
 - (C) the personal representatives of the estate of any nominee under that nomination who is deceased,

such payment not exceeding that nominee's portion of the death benefits under the policy.

[3/2009 wef 01/03/2009]

[Act 11 of 2013 wef 18/04/2013]

(8) Where —

- (a) the policy owner of a policy referred to in subsection (2) has made a nomination under section 49M(2) in respect of the policy;
- (b) that nomination is not and is not deemed to be revoked; and
- (c) the licensed insurer of the policy has received written notice of that nomination under section 49N(1)(b),

the licensed insurer may make a payment under subsection (2)(a) to —

- (i) any nominee under that nomination who has attained the age of 18 years;
- (ii) a parent or legal guardian, not being the policy owner, of any nominee under that nomination who is below the age of 18 years; or
- (iii) the personal representatives of the estate of any nominee under that nomination who dies after the policy owner,

such payment not exceeding that nominee's portion of the death benefits under the policy.

[3/2009 wef 01/03/2009]

[Act 11 of 2013 wef 18/04/2013]

(9) Subject to subsection (7), where —

- (a) the policy owner of a policy referred to in subsection (2) has made, and has not revoked, a will in accordance with the Wills Act (Cap. 352);
- (b) the will —
 - (i) provides for the disposition of all death benefits under the policy; and

- (ii) specifies such particulars of the policy as may be prescribed by the Authority under section 49M(7)(b)(ii); and
- (c) the licensed insurer of the policy has received written notice, signed by the policy owner, of that will in such manner as may be prescribed by the Authority for the purposes of this subsection,

the licensed insurer may make a payment under subsection (2)(a) to any executor of that will, such payment not exceeding the amount of the death benefits under the policy.

[3/2009 wef 01/03/2009]

[Act 11 of 2013 wef 18/04/2013]

(10) Subject to subsection (11), where —

- (a) the policy owner of a policy referred to in subsection (2) or (3) has not made —
 - (i) any nomination under section 49L(2) or 49M(2) in respect of the policy; or
 - (ii) any will which —
 - (A) provides for the disposition of all death benefits under the policy; and
 - (B) specifies such particulars of the policy as may be prescribed by the Authority under section 49M(7)(b)(ii);
- (b) the licensed insurer of a policy referred to in subsection (2) or (3) has not received —
 - (i) any written notice referred to in section 49N(1)(b) of any nomination made under section 49L(2) or 49M(2) in respect of the policy; or
 - (ii) any written notice referred to in subsection (9)(c) of any will providing for the disposition of all death benefits under the policy; or

- (c) there exist, in respect of a policy referred to in subsection (2) or (3), such other circumstances as the Authority may prescribe,

the licensed insurer of the policy may make a payment under subsection (2)(b) or (3) to any proper claimant from the death benefits under the policy.

[3/2009 wef 01/03/2009]

[Act 11 of 2013 wef 18/04/2013]

(11) Where subsection (10) applies, and the licensed insurer referred to in that subsection receives 2 or more different claims for payment in accordance with that subsection —

- (a) each such claim shall be paid in the same order of priority; and
- (b) the amount payable under subsection (2)(b) or (3), as the case may be, in respect of any such claim shall be calculated as follows:

$$\frac{A}{B} \times C,$$

where A is the amount which would have been payable in respect of that claim had it been paid in full;

B is the total amount which would have been payable in respect of all such claims had they been paid in full; and

C is the amount prescribed by the Authority for the purposes of subsection (2)(b) or (3), as the case may be.

[3/2009 wef 01/03/2009]

[Act 11 of 2013 wef 18/04/2013]

- (12) In this section, unless the context otherwise requires —
 “policy owner” includes a part owner of a policy;

“proper claimant” means a person who —

- (a) claims to be entitled to payment under subsection (2)(b) or (3) as executor of the deceased; or
- (b) claims to be entitled to payment under subsection (2)(b) or (3) (whether for his own benefit or not) and is the widower, widow, parent, child, brother, sister, nephew or niece of the deceased;

“relevant person” means the personal representative of the deceased or, where there is none, any proper claimant.

[3/2009 wef 01/03/2009]

(13) In deducing any relationship for the purposes of the definition of “proper claimant” in subsection (12), an illegitimate person shall be treated as the legitimate child of his actual parents.

[3/2009 wef 01/03/2009]

(14) For the purposes of this section, where any nomination has been or is deemed to be varied, any reference to a nominee under that nomination shall be construed as a reference to a nominee under that nomination as varied.

[3/2009 wef 01/09/2009]

No insurance to be made unless insurer has interest and no policy without inserting names (UK Life Assurance Act 1774)

62.—(1) No insurance shall be made by any person on any event wherein the person for whose use or benefit or on whose account the policy is made has no interest, or by way of gaming or wagering; and every assurance made contrary to this subsection shall be void.

[35/93]

(2) It shall not be lawful to make any policy on any event without inserting in such policy the names of the persons interested therein, or for whose use or benefit or on whose account such policy was made.

[35/93]

(3) In all cases where there is an interest in such event, no greater sum shall be recovered or received from the insurer than the amount or value of the interest.

[35/93]

(4) Nothing in this section shall extend to insurance made by any person on ships or goods, or to contracts of indemnity against loss by fire or loss by other events whatsoever.

[35/93]

No action for accidental fire (UK Fire Prevention (Metropolis) Act 1774, s. 86)

63. No action shall lie against a person in whose house or premises or on whose estate any fire accidentally began except that no contract or agreement made between landlord and tenant shall be hereby defeated or made void.

[35/93]

Division 3 — Supplementary

Amendment of Schedules

63A.—(1) The Minister may from time to time, by order published in the *Gazette*, amend, add to or vary the First or Second Schedule.

[23/2003 wef 01/01/2004]

(2) The Minister may, in any order made under subsection (1), make such incidental, consequential or supplementary provisions as may be necessary or expedient.

[23/2003 wef 01/01/2004]

(3) Any order made under subsection (1) shall be presented to Parliament as soon as possible after publication in the *Gazette*.

[23/2003 wef 01/01/2004]

Regulations

64.—(1) The Authority may make regulations for carrying into effect the objects of this Act, and for prescribing anything which under this Act is to be prescribed.

[11/86; 32/93]

(1A) Without prejudice to the generality of subsection (1), regulations may be made for or with respect to —

(a) the forms for the purposes of this Act;

(b) the fees to be paid in respect of any matter or thing required for the purposes of this Act, including the waiver, refund or remission, whether in whole or in part, of such fees; and
[Act 11 of 2013 wef 18/04/2013]

(c) the corporate governance of insurers.
[23/2003 wef 01/01/2004]

(1B) Except as otherwise expressly provided in this Act, regulations made under this Act —

(a) may be of general or specific application;

(b) may provide that a contravention of any specified provision thereof shall be an offence; and

(c) may provide —

(i) in the case of an individual, for penalties not exceeding a fine of \$50,000 or imprisonment for a term not exceeding 2 years or both for each offence and, in the case of a continuing offence, for a further penalty not exceeding a fine of 10% of the maximum fine prescribed for that offence for every day or part thereof during which the offence continues after conviction; or

(ii) in any other case, for penalties not exceeding a fine of \$100,000 for each offence and, in the case of a continuing offence, for a further penalty not exceeding a fine of 10% of the maximum fine prescribed for that offence for every day or part thereof during which the offence continues after conviction.

[Act 11 of 2013 wef 18/04/2013]

[23/2003 wef 01/01/2004]

(2) The Authority may issue such directions as it may consider necessary for carrying into effect the objects of this Act, and may at any time vary, rescind or revoke any such directions.

[11/86; 32/93]

[Act 11 of 2013 wef 18/04/2013]

(2A) Without prejudice to the generality of subsection (2), the Authority may issue such directions as it may consider necessary to an

authorised reinsurer with respect to the manner and form of the transfer of the whole or part of its business of providing the reinsurance of liabilities under insurance policies, to persons in Singapore.

[23/2003 wef 01/01/2004]

(3) It shall not be necessary to publish any direction issued under this Act in the *Gazette*.

[Act 11 of 2013 wef 18/04/2013]

Saving provisions

65.—(1) The repeal of section 34 shall not —

- (a) invalidate any existing Lloyd’s policy;
- (b) prevent the collection or receipt of premiums on any existing Lloyd’s policy; or
- (c) prejudice any right or claim against the Lloyd’s underwriter, or by the Lloyd’s underwriter of any right or claim against any policy owner or person, relating to any existing Lloyd’s policy.

(2) The Authority shall, if satisfied that insurance business is not being carried on in Singapore by any Lloyd’s underwriter under the repealed section 34, transfer any deposit referred to in the repealed section 34(4) and maintained under the repealed Second Schedule, to Lloyd’s, except such part (if any) that the Authority determines should be kept available for meeting claims against Lloyd’s underwriters in respect of any existing Lloyd’s policy.

(3) For the purposes of this section —

“existing Lloyd’s policy” means any insurance policy entered into by a Lloyd’s underwriter before 8th January 2002 and which was authorised under the repealed section 34;

“Lloyd’s” has the same meaning as in the repealed section 34;

“Lloyd’s underwriter” has the same meaning as in the repealed section 34.

[41/2001]

FIRST SCHEDULE

Section 2(9)

DEFINITION OF INSURANCE TERMS

General

1.—(1) “Policy” includes any contract of insurance whether or not embodied in or evidenced by an instrument in the form of a policy, and references to issuing a policy shall be construed accordingly.

(2) References to a policy of an insurer include any policy in respect of which the insurer is under any liability, whether the policies were issued by the insurer or the liability was transferred to the insurer from another.

2.—(1) Subject to this paragraph and section 16(3) and (4) of the Act, “Singapore policy”, in relation to any insurer, means a policy issued in the course of the insurer’s business in Singapore and falling within one of the following descriptions:

- (a) in relation to a life policy or accident and health policy (not being a reinsurance policy) —
 - (i) where the policy owner is an individual, the policy owner or insured is ordinarily resident in Singapore at the date of the proposal in respect of the policy (referred to in this paragraph as the proposal date);
 - (ii) where the policy owner is not an individual —
 - (A) the policy owner’s address is or was an address in Singapore at the date of the issue of the policy and at the date of the establishment of the insurer’s register of Singapore policies (if the policy was issued before then);
or
 - (B) the policy covers an insured who is ordinarily resident in Singapore at the proposal date;
- (b) in relation to direct general insurance (other than short-term accident and health policies), a policy where the risk arises in Singapore or —
 - (i) where the insured is an individual, the insured is ordinarily resident in Singapore; or
 - (ii) where the insured is not an individual, the insured is a person resident in Singapore or has a permanent establishment in Singapore;

FIRST SCHEDULE — *continued*

- (c) in relation to treaty general reinsurance (other than short-term accident and health policies), a policy where more than 25% of the total risks in terms of gross premiums arise in Singapore; and
- (d) in relation to treaty life reinsurance or treaty accident and health reinsurance, a policy where more than 25% of the policies under which the risk or risks reinsured ultimately arises or arise in terms of gross premiums are policies referred to in sub-paragraph (a).

[Act 11 of 2013 wef 01/01/2014]

(2) Notwithstanding sub-paragraph (1)(b), a policy where —

- (a) the insured is an individual and the insured is ordinarily resident in Singapore; or
- (b) the insured is not an individual and the insured is a person resident in Singapore or has a permanent establishment in Singapore,

shall not be regarded as a Singapore policy if it is in respect of cargo transported from a place outside Singapore to a place outside Singapore, whether or not the cargo is in transit in Singapore.

[S 184/2010 wef 01/01/2011]

(3) “Offshore policy”, in relation to any insurer, means any policy, other than a Singapore policy, issued in the course of the insurer’s business in Singapore.

(4) For the purposes of this paragraph —

- (a) an individual shall be treated as ordinarily resident in Singapore if the individual —
 - (i) is a citizen of Singapore, unless he has resided outside Singapore continuously for 5 or more years preceding the proposal date of the policy and is not currently residing in Singapore;
 - (ii) is a permanent resident, unless he has resided in Singapore for less than a total of 183 days in the 12 months preceding the proposal date of the policy;
 - (iii) has a work pass or permit required under the Employment of Foreign Manpower Act (Cap. 91A), unless he has resided in Singapore for less than a total of 183 days in the 12 months preceding the proposal date of the policy; or
 - (iv) has a pass or permit required under the Immigration Act (Cap. 133) that has a duration longer than 90 days and has resided in Singapore continuously for at least 90 days in the 12 months preceding the proposal date of the policy;

FIRST SCHEDULE — *continued*

- (b) “policy owner’s address” means the address for the time being known to the insurer as the address (or normal address) for communicating with the policy owner about the policy;
- (c) “resident in Singapore” and “permanent establishment” have the same meanings as in the Income Tax Act (Cap. 134);
- (d) “permanent resident” means any individual who is not subject to any restriction as to his period of residence in Singapore imposed under the provisions of any written law relating to immigration for the time being in force;
- (e) where an individual is present in Singapore for any part of a day, his presence on that day shall be counted as one day.

[S 184/2010 wef 01/01/2011]

(5) Sub-paragraph (1)(a) shall apply to a life or accident and health policy of facultative reinsurance —

- (a) where the owner of the policy under which the liability reinsured ultimately arises is an individual, as if the references to the proposal date and to whether the policy owner or insured is ordinarily resident in Singapore are references to those of the policy under which the liability reinsured ultimately arises; and
- (b) where the owner of the policy under which the liability reinsured ultimately arises is not an individual, as if the references to the date of issue and proposal date of the policy, to the policy owner’s address and to whether the insured is ordinarily resident in Singapore are references to those of the policy under which the liability reinsured ultimately arises.

[Act 11 of 2013 wef 01/01/2014]

(6) Sub-paragraph (1)(b) shall apply to a policy of facultative general reinsurance as if the references to the insured are references to the person or persons insured by the policy under which the liability reinsured ultimately arises.

[Act 11 of 2013 wef 01/01/2014]

2A. “Child” means a legitimate child, an illegitimate child, a stepchild or a child adopted in accordance with any written law relating to the adopting of children.

[3/2009 wef 01/09/2009]

3. “Policy owner” means, where a policy has been assigned, the assignee for the time being and, where they are entitled as against the insurer to the benefit of the policy, the personal representatives of a deceased policy owner.

4. “Policy moneys” includes any benefit, pecuniary or not, which is secured by a policy, and “pay” and other expressions, where used in relation to policy moneys, shall be construed accordingly.

FIRST SCHEDULE — *continued*

- 4A. “Accident and health benefits” means policy moneys which are paid out —
- (a) in the event of an injury to, or a disability of, the insured as a result of accident or sickness;
 - (b) in the event of the insured being found to have a condition or disease stated in the policy of the insured;
 - (c) with respect to health services;
 - (d) on the death, by accident or some other cause stated in the policy, of the insured; or
 - (e) on the happening of a combination of any of the above,

but does not include policy moneys that are payable with respect to any loss arising out of a liability to pay compensation or damages.

[23/2003 wef 01/01/2004]

- 4B. “Health services” means —

- (a) medical, surgical, diagnostic, nursing, dental, chiropody or chiropractic services, or eye therapy, occupational therapy, physiotherapy, speech therapy, or other similar services or treatment;
- (b) services involving the supply, alteration, maintenance or repair of hearing aids, spectacles, contact lenses, artificial teeth, eyes or limbs (including parts of teeth or limbs) or other medical, surgical, prosthetic or dental aids, equipment or appliances;
- (c) the provision of drugs or medicinal preparations;
- (d) ambulance or paramedic services; or
- (e) professional services provided for the treatment or management of a person who is sick or disabled.

[23/2003 wef 01/01/2004]

4C. “Accident and health policy” means any policy which provides accident and health benefits only.

[23/2003 wef 01/01/2004]

4D.—(1) “Long-term accident and health policy” means any accident and health policy that —

- (a) may, in accordance with the terms and conditions of the policy, be in force for more than 5 years if it is not terminated earlier by the policy owner; and

FIRST SCHEDULE — *continued*

- (b) does not contain any term or condition which permits the insurer to terminate the policy unilaterally, other than termination on the ground of fraud or material non-disclosure.

[23/2003 wef 01/01/2004]

(2) An accident and health policy that is of a duration of 5 years or less but satisfies sub-paragraph (1)(b) shall be considered a long-term accident and health policy if the policy is of a duration of 5 years or less only because of the age of the insured at the time when it was entered into.

[23/2003 wef 01/01/2004]

(3) Where the terms and conditions of an accident and health policy provide the insured an option of extending the duration of the policy, whether on the same terms and conditions or otherwise, the duration of the policy shall be determined on the assumption that the insured will exercise the option.

[23/2003 wef 01/01/2004]

4E. “Short-term accident and health policy” means any accident and health policy that is not a long-term accident and health policy.

[23/2003 wef 01/01/2004]

4F. “Death benefits” means policy moneys which are paid out on the death of the insured.

[3/2009 wef 01/09/2009]

4G. “Living benefits” means policy moneys which are paid out before the death of the insured.

[3/2009 wef 01/09/2009]

Definitions related to life business

5.—(1) Subject to sub-paragraph (2), “life policy” means any policy which —

- (a) provides for the payment of policy moneys on the death of a person or on the happening of any contingency dependent on the termination or continuance of human life;
- (b) is subject to payment of premiums for a term dependent on the termination or continuance of human life;
- (c) provides for the payment of an annuity for a term dependent on the termination or continuance of human life; or
- (d) is a combination of any of the above.

[23/2003 wef 01/01/2004]

(2) An accident and health policy that provides for the payment of policy moneys on the death of a person is not a life policy.

[3/2009 wef 01/09/2009]

FIRST SCHEDULE — *continued*

6. “Investment-linked policy” means any policy which provides benefits calculated by reference to units, the value of which is related to the market value of the underlying assets, and “non-investment-linked policy” means a policy that is not an investment-linked policy.

[23/2003 wef 01/01/2004]

6A.—(1) “Participating policy” means any non-investment-linked policy conferring a right to participate in allocations by way of bonuses from policy assets of the fund established and maintained by an insurer for such a policy, and “non-participating policy” means a non-investment-linked policy not conferring such a right.

[S 184/2010 wef 30/03/2010]

(2) “Policy assets”, in relation to a fund established and maintained for participating policies, means the total assets of the fund as at valuation date held for the benefit of policyholders in that fund less —

(a) the balance in the surplus account established and maintained in such manner as prescribed under section 17(6) of the Act; and

(b) the amount of assets required to satisfy the liabilities described as “other liabilities” in statements of account lodged with the Authority under section 36(3) of the Act.

[S 184/2010 wef 30/03/2010]

[Act 11 of 2013 wef 18/04/2013]

(3) “Valuation date”, in relation to policy assets, means the date on which the assets and liabilities of an insurer are valued.

[S 184/2010 wef 30/03/2010]

7. *[Deleted by Act 11 of 2013 wef 18/04/2013]*

8. *[Deleted by Act 23 of 2003 wef 01/01/2004]*

SECOND SCHEDULE

Section 50(1A)

SPECIFIED PROVISIONS

1. *[Deleted by Act 11 of 2013 wef 18/04/2013]*

2. Section 35ZA(3)

3. Section 52(2).

[23/2003 wef 01/01/2004]

[Act 11 of 2013 wef 18/04/2013]

LEGISLATIVE HISTORY

INSURANCE ACT (CHAPTER 142)

This Legislative History is provided for the convenience of users of the Insurance Act. It is not part of this Act.

1. Act 46 of 1966 — Insurance Act 1966

Date of First Reading	:	26 October 1966 (Bill No. 40/66 published on 8 November 1966)
Date of Second and Third Readings	:	5 December 1966
Date of commencement	:	1 January 1967

2. Act 37 of 1967 — Insurance (Amendment) Act 1967

Date of First Reading	:	14 November 1967 (Bill No. 33/67 published on 17 November 1967)
Date of Second and Third Readings	:	5 December 1967
Date of commencement	:	20 December 1967

3. 1970 Revised Edition (Cap. 193) — Insurance Act 1970

Date of operation	:	1 January 1970
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4. Act 22 of 1973 — Insurance (Amendment) Act 1973

Date of First Reading	:	7 March 1973 (Bill No. 17/73 published on 9 March 1973)
Date of Second and Third Readings	:	20 March 1973
Date of commencement	:	21 April 1973

5. Act 50 of 1975 — Insurance (Amendment) Act 1975

Date of First Reading	:	11 November 1975 (Bill No. 54/75 published on 11 November 1975)
Date of Second and Third Readings	:	20 November 1975
Date of commencement	:	1 January 1976

6. 1985 Revised Edition — Insurance Act

Date of operation	:	1 January 1985
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7. Act 11 of 1986 — Insurance (Amendment) Act 1986

Date of First Reading : 31 October 1985
(Bill No. 18/85 published on
12 November 1985)

Date of Second and Third Readings : 10 January 1986

Date of commencement : 1 January 1987

8. Act 35 of 1993 — Application of English Law Act 1993

(Consequential amendments made by)

Date of First Reading : 30 August 1993
(Bill No. 26/93 published on
31 August 1993)

Date of Second and Third Readings : 12 October 1993

Date of commencement : 12 November 1993

9. Act 32 of 1993 — Insurance (Amendment) Act 1993

Date of First Reading : 30 August 1993
(Bill No. 27/93 published on
31 August 1993)

Date of Second and Third Readings : 12 October 1993

Date of commencement : 31 December 1993

10. 1994 Revised Edition — Insurance Act

Date of operation : 15 March 1994

11. Act 21 of 1995 — Insurance (Amendment) Act 1995

Date of First Reading : 23 March 1995
(Bill No. 16/95 published on
24 March 1995)

Date of Second and Third Readings : 7 July 1995

Date of commencement : 15 August 1995

**12. Act 25 of 1999 — Drug Trafficking (Confiscation of Benefits)
(Amendment) Act 1999**

(Consequential amendments made by)

Date of First Reading : 4 May 1999
(Bill No. 16/99 published on
5 May 1999)

Date of Second and Third Readings : 6 July 1999

- Date of commencement : 13 September 1999
- 13. Act 30 of 1999 — Insurance (Amendment) Act 1999**
- Date of First Reading : 6 July 1999
(Bill No. 19/99 published on
7 July 1999)
- Date of Second and Third Readings : 4 August 1999
- Date of commencement : 31 December 1999
- 14. 2000 Revised Edition — Insurance Act**
- Date of operation : 1 July 2000
- 15. Act 41 of 2001 — Insurance (Amendment) Act 2001**
- Date of First Reading : 25.9.2001
(Bill No. 35/2001 published on
26 September 2001)
- Date of Second and Third Readings : 5 October 2001
- Date of commencement : 8 January 2002 (except
section 20)
- 16. Act 41 of 2001 — Insurance (Amendment) Act 2001**
- Date of First Reading : 25.9.2001
(Bill No. 35/2001 published on
26 September 2001)
- Date of Second and Third Readings : 5 October 2001
- Date of commencement : 1 October 2002 (section 20)
- 17. 2002 Revised Edition — Insurance Act**
- Date of operation : 31 December 2002
- 18. Act 23 of 2003 — Insurance (Amendment) Act 2003**
- Date of First Reading : 16 October 2003
(Bill No. 20/2003 published on
12 December 2003)
- Date of Second and Third Readings : 10 November 2003
- Date of commencement : 1 January 2004

19. Act 24 of 2003 — Monetary Authority of Singapore (Amendment) Act 2003

Date of First Reading	: 16 October 2003 (Bill No. 21/2003 published on 12 December 2003)
Date of Second and Third Readings	: 10 November 2003
Date of commencement	: 1 January 2004

20. Act 23 of 2003 — Insurance (Amendment) Act 2003

Date of First Reading	: 16 October 2003 (Bill No. 20/2003 published on 12 December 2003)
Date of Second and Third Readings	: 10 November 2003
Date of commencement	: 23 August 2004 (Sections 18(<i>d</i>) and (<i>e</i>), 19 and 20(<i>c</i>))

21. Act 5 of 2005 — Limited Liability Partnerships Act 2005

Date of First Reading	: 19 October 2004 (Bill No. 64/2004 published on 11 February 2005)
Date of Second and Third Readings	: 25 January 2005
Date of commencement	: 11 April 2005

22. Act 21 of 2005 — Companies (Amendment) Act 2005

Date of First Reading	: 18 April 2005 (Bill No. 11/2005 published on 10 June 2005)
Date of Second and Third Readings	: 16 May 2005
Date of commencement	: 30 January 2006

23. Act 42 of 2005 — Statutes (Miscellaneous Amendments) (No. 2) Act 2005

Date of First Reading	: 17 October 2005 (Bill No. 30/2005 published on 16 December 2005)
Date of Second and Third Readings	: 21 November 2005
Date of commencement	: 1st April 2006 (Items (2) to (7), (9), (11), (12), (13), (15), (16), (22), (25), (31), (34) (<i>a</i>) and (36))

in the First Schedule; and the
Third Schedule)

24. Act 5 of 2008 — Workmen’s Compensation (Amendment) Act 2008

Date of First Reading : 12 November 2007
(Bill No. 50/2007 published on
29 February 2008)

Date of Second and Third Readings : 22 January 2008

Date of commencement : 1 April 2008

25. Act 3 of 2009 — Insurance (Amendment) Act 2009

Date of First Reading : 20 October 2008

Date of Second and Third Readings : 19 January 2009

Dates of commencement : 1st March 2009 (Sections 3 & 4)

**26. G. N. No. S 130/2009 — Insurance Act (Amendment of First Schedule)
Order 2009**

Date of commencement : 31 March 2009

27. Act 3 of 2009 — Insurance (Amendment) Act 2009

Date of First Reading : 20 October 2008

Date of Second and Third Readings : 19 January 2009

Dates of commencement : 1st September 2009 (Sections 2,
5 to 11 and 13)

**28. G. N. No. S 184/2010 — Insurance Act (Amendment of First Schedule)
Order 2010**

Date of commencement : 30 March 2010
(except paragraph 2(a))

**29. G. N. No. S 184/2010 — Insurance Act (Amendment of First Schedule)
Order 2010**

Date of commencement : 1 January 2011 (paragraph 2(a))

30. Act 16 of 2011 — Insurance Act (Amendment) Act 2011

Date of First Reading : 10 March 2011
(Bill No. 32/2010 published on
10 March 2011)

Date of Second and Third Readings : 11 April 2011

Date of commencement : 1 May 2011

31. Act 11 of 2013 — Insurance (Amendment) Act 2013

Date of First Reading	:	4 February 2013 (Bill No. 5/2013 published on 4 February 2013)
Date of Second and Third Readings	:	15 March 2013
Date of commencement	:	18 April 2013

32. Act 11 of 2013 — Insurance (Amendment) Act 2013

Date of First Reading	:	4 February 2013 (Bill No. 5/2013 published on 4 February 2013)
Date of Second and Third Readings	:	15 March 2013
Date of commencement	:	1 January 2014

33. Act 35 of 2014 — Statutes (Miscellaneous Amendments) (No. 2) Act 2014

Date of First Reading	:	8 September 2014 (Bill No. 24/2014 published on 8 September 2014)
Date of Second and Third Readings	:	7 October 2014
Date of commencement	:	1 July 2015

34. Act 19 of 2015 — Insurance (Amendment) Act 2015

Date of First Reading	:	11 May 2015 (Bill No. 16/2015 published on 11 May 2015)
Date of Second and Third Readings	:	13 July 2015
Date of commencement	:	1 January 2016

35. Act 29 of 2014 — Business Names Registration Act 2014
(Consequential amendments made to Act by)

Date of First Reading	:	8 September 2014 (Bill No. 26/2014)
Date of Second and Third Readings	:	8 October 2014
Date of commencement	:	3 January 2016

COMPARATIVE TABLE
INSURANCE ACT
(CHAPTER 142)

The following provisions in the 1994 Revised Edition of the Insurance Act have been renumbered by the Law Revision Commissioners in this 2002 Revised Edition.

This Comparative Table is provided for the convenience of users. It is not part of the Insurance Act.

2002 Ed.	1994 Ed.
1A	8—(5), 64—(3) and 65—(1)
2—(8)	65—(2)
(9)	(8)
12—(4)	12—(3A)
(5)	(3B)
(6)	(4)
—	(5) and (6) — <i>Deleted by Act 41/2001</i>
16—(8) and (9)	16—(8)
(10)	(9)
—	17—(8) — <i>Omitted see subsection (7)</i>
17—(8) to (16)	17—(9) to (17)
31—(5) to (10)	31—(4A) to (4F)
(11)	(5)
36—(4) and (5)	36—(3A) and (3B)
(6) and (7)	(4) and (5)
(8)	(5A)
(9) to (15)	(6) to (12)
37—(2) to (6)	37—(1A) to (1E)
(7) to (11)	(2) to (6)
52—(2) and (3)	52—(1A) and (1B)
(4)	(2)

64—(3)	64—(2A)
65	38—(2), (3) and (4) of Act 41 of 2001
THE SCHEDULE	FIRST SCHEDULE
—	SECOND SCHEDULE (<i>Repealed by Act 41/2001</i>)