PARLIAMENT OF THE DEMOCRATIC

SOCIALIST REPUBLIC OF

SRI LANKA

REGULATION OF INSURANCE INDUSTRY

(AMENDMENT) ACT, No. 3 OF 2011

[Certified on 07th February, 2011]

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Regulation of Insurance Industry (Amendment) 1

Act, No. 3 of 2011

[Certified on 07th February, 2011]

L.D.—O. 13/2010

ANACT TOAMEND THE REGULATION OF INSURANCE INDUSTRY

ACT, NO. 43 OF 2000

BE it enacted by the Parliament of the Democratic Socialist

Republic of Sri Lanka as follows:—

1. This Act may be cited as the Regulation of Insurance Short title.

Industry (Amendment) Act, No. 3 of 2011.

2. Section 4 of the Regulation of Insurance Industry Amendment of

section 4 of Act,

Act, No. 43 of 2000 (hereinafter referred to as the “principal

No. 43 of 2000.

enactment”) is hereby amended as follows:—

(1) in subsection (1) of that section, by the repeal of

paragraph (c) of that subsection and the substitution

therefor of the following paragraph:—

“(c) the Registrar-General of Companies ; ”; and

(2) in subsection (3) of that section, by the substitution

for the words “of the Schedule to this Act”, and for

the words “members its of the Board,”, of the words

“of the First Schedule to this Act” and of the words

“members of the Board,”, respectively.

3. Section 5 of the principal enactment is hereby Amendment of

amended as follows:— section 5 of the

principal

enactment.

(1) by the insertion immediately after paragraph (b) of

that section of the following new paragraph:—

“(bb) register persons as loss adjusters;”; and

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(2) by the insertion immediately after paragraph (d) of

that section, of the following new paragraph:—

“(dd) enter into any bi-lateral or multi-lateral

memorandum of understanding pertaining to

the sharing of information, with any local or

foreign person;”.

Amendment of 4. Section 6 of the principal enactment is hereby

section 6 of the

amended in subsection (2) of that section, by the repeal of

principal

enactment. paragraph (b) of that subsection and the substitution therefor

of the following paragraph:—

“(b) all such sums of money as shall be paid as

registration fees under sections 14, 81, 83 and

89C of this Act;”.

Amendment of 5. Section 12 of the principal enactment is hereby

section 12 of the amended as follows :—

principal

enactment.

(1) by the insertion immediately after subsection (1)

thereof, of the following new subsection:—

“(1A). Notwithstanding the provisions contained

in subsection (1), the National Insurance Trust Fund

Board established by the National Insurance Trust

Fund Act, No. 28 of 2006 shall be deemed to be:—

(a) a person registered under this Act to carry on

insurance business in Sri Lanka ; and

(b) an Insurer registered under the provisions of

this Act to carry on insurance business from

the date of coming into operation of this

Act.”;

(2) in subsection (2) thereof, by the substitution for the

words “for long term insurance business or for both

general and long term insurance business.” of the

words “for long term insurance business.”;

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(3) in subsection (3) thereof by the substitution for the

words and figures “the Social Security Board

established by the Social Security Board Act, No.

17 of 1996 and the National Insurance Trust Fund

Board established by the National Insurance Trust

Fund Act, No. 28 of 2006.” of the words and figures

“the Social Security Board established by the Social

Security Board Act, No. 17 of 1996.”.

6. Section 13 of the principal enactment is hereby Amendment of

amended in subsection (1) of that section, as follows:— section 13 of the

principal

enactment.

(1) in paragraph (b) thereof, by the substitution for the

words “less than the prescribed amount;”, of the

words “less than such amount as determined by the

Board by rules made in that behalf;”; and

(2) by the insertion immediately after paragraph (b)

thereof, of the following new paragraph:—

“(bb) has in its Board of Directors persons who are

not subject to any one or more of the

disqualifications specified in the Second

Schedule to this Act;”.

7. Section 14 of the principal enactment is hereby Amendment of

section 14 of the

amended in subsection (1) of that section, as follows:—

principal

enactment.

(1) in paragraph (h) thereof, by the substitution for the

words “section 13; and”, of the words “section 13;”;

(2) in paragraph (i) thereof, by the substitution for the

words “three years.”, of the words “three years; and”;

and

(3) by the addition immediately after paragraph (i)

thereof, of the following new paragraph:—

“(j) such other documents and information as may

be determined by the Board.”.

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Insertion of new 8. The following new section is hereby inserted

section 15A in immediately after section 15 of the principal enactment and

the principal

enactment. shall have effect as section 15A of that enactment:—

“Insurer to 15A. Every insurer shall be required within

be listed on a three years of being issued with a licence under

licensed

section 15 of this Act, to have itself listed on a

stock

exchange. licensed stock exchange.”.

Repeal of

9. Section 17 of the principal enactment is hereby

section 17 of the

principal repealed.

enactment.

Amendment of 10. Section 18 of the principal enactment is hereby

section 18 of the

amended in subsection (1) of that section, as follows:—

principal

enactment.

(1) in paragraph (g) thereof, by the substitution for the

words “direction given by the Board”, of the words

“direction given or determination made by the

Board ”; and

(2) in paragrph (h) thereof, by the substitution for the

words “in its, application for registration;”, of the

words “in its application for registration or in any

information or document submitted to the Board;”.

Repeal of 11. Section 28 of the principal enactment is hereby

section 28 of the

repealed.

principal

enactment.

Insertion of new 12. The following new section is hereby inserted

section 31A in

immediately after section 31 of the principal enactment and

the principal

enactment. shall have effect as section 31A of that enactment:—

“No person 31A. A person shall not be appointed,

be appointed

elected or nominated as a director of an insurer

a director of

an insurer or or continue as a director of an insurer, if such

continue as a person is subject to any one or more of the

director in

disqualifications specified in the Second

certain

circumstances. Schedule to this Act.”.

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13. Section 32 of the principal enactment is hereby Amendment of

section 32 of the

amended by the insertion immediately after subsection (1)

principal

of that section, of the following new subsection:— enactment.

“(1A) The disqualifications specified in the Second

Schedule to this Act, shall mutatis mutandis, apply to and

in relation to a person employed as a specified officer

under subsection (1).”.

14. The following new sections are hereby inserted Insertion of new

sections 33A,

immediately after section 33 of the principal enactment and

33B, 33C, 33D

shall have effect as sections 33A, 33B, 33C, 33D and 33E of and 33E of the

that enactment:— principal

enactment.

“Conditions 33A. (1) A director or an employee of an

relating to insurer shall not be appointed, elected or

the

nominated as a director of another insurer,

appointment

of directors except where such insurer is a subsidiary

of an insurer. company or an associate company of the first

mentioned insurer.

(2) An employee of an insurer may be

appointed, elected or nominated as a director

of that insurer, subject however to the condition

that the number of employees that may be so

appointed, elected or nominated as directors,

shall not exceed one-third of the total number

of members of the Board of Directors of that

insurer.

Insurer to 33B. (1) Every insurer shall submit to the

inform Board Board along with the Form required to be filed

of proposed

appointment, with the Registrar-General of Companies, a

nomination notice in such form and manner as shall be

or election of determined by the Board, giving information

directors. about each person sought to be appointed,

elected or nominated as a director of the insurer,

prior to the making of such appointment,

election or nomination, as the case may be,

and obtain the Boards approval for the same.

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(2) Where the Board receives a notice from

an insurer under subsection (1) informing it of

a proposed appointment, election or

nomination of a person as a director of such

insurer, the Board shall within thirty days of

receipt of such notice and having regard to the

provisions of section 33A, and to the

disqualifications specified in the Second

Schedule to this Act, approve or refuse to

approve such appointment, election or

nomination, as the case may be, and inform the

insurer of its decision along with its reasons

for reaching such decision. It shall also be the

duty of the insurer to communicate to the person

concerned, who is sought to be appointed,

elected or nominated, as a director, the decision

of the Board.

(3) Any person aggrieved by a decision

given by the Board under subsection (2), may

submit an appeal against such decision to the

Board which shall be referred by the Board to a

Panel of Review, consisting of three persons

appointed by the Minister, from among persons

who have experience and shown capacity in

the field of insurance, financial management

or law. The Panel of Review shall having

considered the grounds on which the appeal is

being made and any other matters which in its

opinion merits consideration, make a decision

either confirming the refusal or approving the

appointment, election or nomination, as the

case may be, of such person as a director of the

insurer concerned.

Appointments, 33C. (1) An insurer shall not appoint, elect

elections or

nominations or nominate as a director of such insurer a

of directors person whose appointment, election or

of an insurer nomination has not been approved by the

to be

approved by Board under section 33B of this Act.

the Board .

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(2) Notwithstanding the provisions of

subsection (1), a person whose name has been

submitted to the Board for approval under

subsection (1) of section 33B, may be appointed,

elected or nominated as a director of the insurer,

pending the receipt of the decision of the

Board. However, where the Board refuses to

grant approval and the insurer communicates

to the person concerned, the decision of the

Board, such person shall from the date of such

communication, cease to hold office as a

director of the insurer, subject to any decision

the Board may reach upon any objections that

may have been tendered by the person

concerned, under subsection (3) of section 33B,

against the decision of the Board refusing to

grant approval.

(3) It shall be the duty of an insurer to inform

the Board forthwith of every appointment,

election or nomination of a director, whose

appointment, election or nomination, as the

case may be, was approved by the Board.

Removal of a 33D. (1) An insurer shall, immediately

director who upon becoming aware that a director of such

is ineligible

insurer has become subject to any one or more

to hold office

as a director. of the disqualifications specified in the Second

Schedule to this Act or has become ineligible

to continue to hold office as a director of the

insurer, inform the Board of such fact.

(2) Where the Board receives any

information under subsection (1) about a

director or where the Board becomes aware at

any time that a person appointed, elected or

nominated as a director of an insurer has

thereafter become disqualified under any one

or more of the disqualifications specified in

the Second Schedule to this Act or has

otherwise become ineligible to continue to

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hold office as a director of an insurer, the Board

shall—

(a) direct the insurer concerned, in writing,

to remove such person from the office

of a director within such period as may

be specified in such direction; and

(b) in writing, notify the person who is to

be removed of the fact of such removal,

with a copy of the direction issued to

the insurer regarding the same annexed

to such notification.

(3) The insurer to whom a direction is issued

under subsection (2) shall, within the period

specified in the direction—

(a) remove the person from the office of

director; and

(b) take such steps as are necessary to

inform the shareholders of the insurer

and the Registrar-General of

Companies of such removal.

(4) The removal of a director in accordance

with a direction issued under paragraph (a) of

subsection (2) shall, notwithstanding the

Articles of Association of the insurer, take effect

from the date of receipt by the director of the

notification of removal sent by the insurer.

(5) Any person who is aggrieved by the

removal of such person from the office of a

director under subsection (3) of this section,

may within fourteen days of being notified of

such removal, appeal therefrom to the Court of

Appeal. The Court of Appeal may on appeal

made under this section, confirm, revise, modify

or set aside the decision against which the

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appeal is made and may make such order as the

interests of justice may require.

Failure to 33E. An insurer who fails to comply with

comply to be any direction given under paragraph (a) of

an offence.

subsection (2) of section 33D within the period

specified in such direction and a director who

has been served with a notice under paragraph

(b) of that subsection who continues to function

as a director thereafter, shall each be guilty of

an offence under this Act and shall be liable on

conviction after summary trial before a

Magistrate to a fine not exceeding five hundred

thousand rupees and shall in addition be

liable—

(a) in the case of the insurer, to a further fine

of one hundred thousand rupees, for each

day that the insurer continues to commit

such offence after conviction; and

(b) in the case of a director of the insurer,

to a further fine of rupees one hundred

thousand for each day such director

continues to function as director, after

conviction.”.

15. Section 35 of the principal enactment is hereby Repeal of

section 35 of the

repealed.

principal

enactment.

16. Section 37 of the principal enactment is hereby Amendment of

section 37 of the

amended by the repeal of subsection (1) of that section and

principal

the substitution therefor of the following subsection:— enactment.

“(1) For the purpose of examining whether the interests

of the policy holders are being adequately safeguarded

every insurer shall be required to file with the Board:—

(a) all policy forms to be issued by such insurer,

prior to its issue;

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(b) any amendments to be made to any policy

forms already issued; and

(c) where required to do so by a notice in writing,

copies of any policy forms already issued.”.

Amendment of 17. Section 47 of the principal enactment is hereby

section 47 of the

principal amended as follows:—

enactment.

(1) in subsection (1) of that section, by the substitution

for the words “by the Board by rules made in that

behalf.”, of the words “by the Board.”; and

(2) in subsection (2) of that section, by the substitution

for the words “required by the rules made by the

Board in that behalf,” , of the words “required by

the Board,”.

Amendment of 18. Section 48 of the principal enactment is hereby

section 48 of the

amended in subsection (1) of that section, by the substitution,

principal

enactment. from all the words from “in accordance with rules” to the

words “as the Board may determine.”, of the words “in such

manner and within such period after the close of the financial

year, as the Board may determine.”.

Amendment of 19. Section 49 of the principal enactment is hereby

section 49 of the amended in paragraph (b) of that section, by the substitution

principle

enactment. for the words “return containing such information as may be

determined by the Board by rules made in that behalf.” of

the words “return containing such information and during

such periods of time, as may be determined by the Board.”.

Amendment of 20. Section 55 of the principal enactment is hereby

section 55 of the

amended by the substitution for the words “the provisions

principal

enactment. of section 162 of the Companies Act, No. 17 of 1982”, of the

words “the provisions of section 173 of the Companies Act,

No. 7 of 2007,”.

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21. Section 56 of the principal enactment is hereby Amendment of

amended by the substitution for the words “abstracts as may section 56 of the

be determined by the Board by rules made in that behalf.”, principal

of the words “abstracts as may be determined by the Board enactment.

and within such period as the Board may determine.”.

22. Section 60 of the principal enactment is hereby Amendment of

amended in the proviso to that section, by the substitution section 60 of the

principal

for the words “any particular insurer, unless the insurer has”, enactment.

of the words “any particular insurer or broker, unless the

insurer or the broker has”.

23. Section 61 of the principal enactment is hereby Replacement of

repealed and the following section substituted therefor:— section 61 of the

principal

enactment.

“Publishing 61. An insurer may with the prior written

of returns approval of the Board, publish any return

submitted to

the Board. submitted to the Board under this Act or a true

and accurate abstract of such return, for purpose

of publicity.”.

24. Section 78 of the principal enactment is hereby Amendment of

amended as follows:— section 78 of the

principal

enactment.

(1) in subsection (1) of that section, by the substitution

for the words “an individual” and for the words “all

individuals”, of the words “any person” and of the

words “all persons”, respectively ; and

(2) in subsection (5) of that section, by the substitution

for the words “any individual”, of the words “any

person”.

25. Section 80 of the principal enactment is hereby Amendment of

section 80 of the

amended as follows:—

principal

enactment.

(1) in paragraph (c) of subsection (1) of that section, by

the substitution for the words “a policy or policies

of insurance”, of the words “policies of insurance”;

and

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(2) in paragraph (b) of subsection (2) of that section—

(a) by the substitution in sub-paragraph (i) of

that paragraph, for the words “specified

officer”, of the words “the principal officer”;

and

(b) in sub-paragraph (ii) of that paragraph, for

the words “an associated or subsidiary

company”, of the words “an associate,

subsidiary or a holding company”.

Amendment of 26. Section 81 of the principal enactment is hereby

section 81 of the amended as follows:—

principal

enactment.

(1) in sub-paragraph (iii) of paragraph (c) of that section,

by the substitution for the words “paragraph (d) of

section 80;”, of the words “paragraph (d) of

subsection (1) of section 80;”; and

(2) in paragraph (h) of that section, by the substitution

for the words “a certified copy of the professional

indemnity insurance policy or policies issued”, of

the words “a certified copy each of the professional

indemnity policies of insurance issued”.

Amendment of 27. Section 83 of the principal enactment is hereby

section 83 of the amended as follows:—

principal

enactment.

(1) by the substitution for the words “on an application

being made in that behalf to the Board”, of the

words “on an application being made in that behalf

to the Board not more than three months but not

less than two months prior to the date of expiry of

its registration”;

(2) in paragraph (a) of that section, by the substitution

for the words “a professional indemnity policy of

insurance for the ensuing period”, of the words

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“a certified copy each of the professional indemnity

policies of insurance for the ensuing period issued

by two or more insurers”; and

(3) in paragraph (d) of that section, by the substitution

for the words “such other documents”, of the words

“such other documents and information ”.

28. Section 84 of the principal enactment is hereby Amendment of

amended as follows :— section 84 of the

principal

enactment.

(1) in subsection (1) of that section—

(a) by the repeal of paragraph (b) of that

subsection, and the substitution therefor of

the following paragraph:

“(b) the broker has failed to comply with or

acted in contravention of any

directions issued by the Board under

this Act;”;

(b) by the insertion immediately after paragraph

(b) of that subsection, of the following new

paragraph:—

“(bb) the broker has ceased to be of good

financial standing;”;

(c) by the repeal of paragraph (c) of that

subsection, and the substitution therfor of the

following paragraph:—

“(c) (i) a director or the principal officer of

the broker; or

(ii) a director or the chief executive

officer of an associate, a subsidiary

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or a holding company of such

broker,

becomes a director, a shareholder or an

employee of an insurer;

(d) by the insertion immediately after paragraph

(c) of that subsection, of the following new

paragraphs:—

“(cc) the broker becomes a shareholder of any

insurer;

(ccc) the broker has contravened any

provision of this Act or any regulation

or rule made or any condition imposed

by the Board, under this Act;”; and

(e) by the repeal of paragraph (e) of that

subsection, and the substitution therefor of

the following paragraph:—

“(e) the broker has furnished false,

misleading or inaccurate information

or has concealed or failed to disclose

material facts in the application for

registration or renewal of registration,

as the case may be, or in any statement

or document submitted to the Board.”;

and

(2) by the insertion immediately after subsection (1) of

that section, of the following new subsection:—

“(1A) The provisions of subsections (2), (3), (4),

(5), (6) and (7) of section 18 of this Act shall, mutatis

mutandis, apply to and in relation to the

cancellation or suspension of a registration under

this section.”; and

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(3) in subsection (2) of that section, by the substitution

for the words “of this Act shall apply”, of the words

“of this Act shall, mutatis mutandis, apply”.

29. The following new section is hereby inserted Insertion of new

section 84A in

immediately after section 84 of the principal enactment and

the principal

shall have effect as section 84A of that enactment:— enactment.

“Board may 84A. Notwithstanding the provisions of

direct certain

section 84, the Board may in lieu of taking

measures to

be taken in any action under that section on any one or

lieu of acting more grounds referred to therein, and where

under section the nature of the act or omission is not of such

84. gravity as to warrant taking action under that

section, direct the broker to take such

measures that the Board may consider

appropriate, to—

(a) rectify and set right any consequence

resulting from such act or omission ;

and

(b) comply with the provisions of this Act

or any regulation or rule made

thereunder or any conditions imposed

or any directions given by the Board,

under this Act.”.

30. Section 85 of the principal enactment is hereby Amendment of

amended as follows:— section 85 of the

principal

enactment.

(1) in subsection (1) of that section, by the substitution

for the words “two or more registered insurers

approved by the Board”, of the words “two or more

insurers,” ;

(2) in subsection (2) of that section and in the proviso

to that subsection, by the substitution for the words

“such policy” and for the words “the policy”, of the

words “such policies” and of the words “the

policies” respectively ; and

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(3) in subsection (3) of that section—

(a) by the substitution for the words “The policy

obtained” and for the words “in either-” of

the words “The policies obtained” and of the

word “of-”, respectively: and

(b) by the substitution in paragraph (b) of that

subsection, for the words “by the Board.”, of

the following words “by the Board,whichever

is higher.”

.

Amendment of 31. Section 86 of the principal enactment is hereby

section 86 of the

amended as follows: —

principal

enactment.

(1) by the repeal of subsection (3) of that section, and

the substitution therefor of the following

subsection:—

“(3) Every broker shall furnish to the Board,

returns, containing such information and within

such period of time as may be determined by the

Board.”; and

(2) by the addition at the end of that section, of the

following new subsection:—

“(6) Every broker shall submit to the Board

annually a certified copy each of the professional

indemnity policies of insurance issued by two or

more insurers as required by section 83 of this

Act.”.

Amendment of 32. Section 88 of the principal enactment is hereby

section 88 of the amended by the substitution for the words “paid by an insurer

principal

enactment. to a broker or insurance agent,”, of the words “paid by an

insurer to a broker or an insurance agent or by a broker to an

insurance agent,”.

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33. The following new Part is hereby inserted Insertion of Part

immediately after section 89 of the principal enactment and VIIIA in the

principal

shall have effect as PART VIIIA of that enactment:— enactment.

“PART VIIIA

REGISTRATION OF LOSS ADJUSTERS

Prohibition 89A. (1) No person shall act or hold out as

against acting a loss adjuster to any insurer, unless such person

as a loss

is the holder of a Certificate of Registration as

adjuster

without a a loss adjuster, issued by the Board under this

Certificate of Act.

Registration.

(2) Notwithstanding the provisions of

subsection (1), a person who is not a resident

of Sri Lanka and who has obtained the

necessary legal recognition as a loss adjuster

from the relevant authority in the country

where such person is resident, is permitted to

function as a loss adjuster within Sri Lanka,

provided such function is being carried on with

a person in Sri Lanka who has been duly

registered as a loss adjuster under the provisions

of this Act.

Qualifications 89B. No person shall be eligible to be

for registered as a loss adjuster under this Act,

registration.

unless such person possesses such

qualifications and experience as may be

determined by the Board by rules made in that

behalf.

Application 89C. (1) An application for registration as

for a loss adjuster shall be made to the Board in

registration

such form as shall be provided for that purpose

and issue of

certificate. by the Board and be accompanied by such

documents, information and fee as shall be

determined by the Board by rules made in that

behalf.

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(2) On receipt of an application under

subsection (1), the Board shall, having

considered the particulars stated therein and

where it deems necessary having given the

applicant an opportunity of being heard, inform

the applicant by written notice whether the

applicant is eligible to be registered as a loss

adjuster or not. Upon registration of any person

as a loss adjuster, such person shall be issued

with a Certificate of Registration and be subject

to such terms and conditions as shall be

specified in the certificate.

(3) A Certificate of Registration issued by

the Board shall authorize its holder to carry on

such activity as specified therein and a

Certificate issued shall not be transferred to

any other person nor be used for the benefit of

any other person.

(4) Any transfer or use of a Certificate of

Registration by the holder thereof in

contravention of the provisions of subsection

(3), shall be null and void, and the Board shall

have the power to revoke such registration with

immediate effect.

(5) The Board may at any time add to, vary

or revoke any term or condition specified in a

Certificate of Registration issued to a loss

adjuster or add any new terms or conditions

thereto.

Revocation 89D. (1) The Board may revoke a

of Certificate of Registration issued to a loss

registration.

adjuster, where the Board is satisfied that such

loss adjuster —

(a) has acted in contravention of any

provisions of this Part of this Act, or

any rules or regulations made

thereunder;

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(b) has acted in breach of any term or

condition specified in the Certificate

of Registration issued by the Board

under this Act;

(c) has made any statement in any

application, account, written

information or document submitted

to the Board by such loss adjuster,

which was later found to be false,

inaccurate or misleading or it is

discovered that the loss adjuster has

concealed or failed to disclose some

material facts that would have affected

the decision of the Board in assessing

his suitability as a loss adjuster; or

(d) has since the grant of the Certificate

of Registration, been found to be

disqualified for the grant of such

registration.

(2) A loss adjuster who is aggrieved by the

decision of the Board under subsection (1) may

appeal therefrom to the Court of Appeal and

the provisions of section 19 of this Act shall

mutatis mutandis apply to and in relation to

such an appeal.

Board to 89E. (1) An application made under this

grant Act for registration as a loss adjuster shall not

opportunity

to show be rejected by the Board without giving notice

cause before in writing to the applicant to show cause within

a rejection. such period as shall be specified in such notice,

as to why such application should not be

rejected.

(2) Where any applicant for a registration—

(a) fails to show cause within the time

specified in the notice issued under

subsection (1); or

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(b) fails to show sufficient cause

acceptable to the Board,

the application made shall be rejected by the

Board.”.

“Amendment of 34. Section 90 of the principal enactment is hereby

section 90 of the

principal amended by the substitution for the word “Company”

enactment. wherever such word appears in the section, of the word

“person”.

Insertion of a 35. The following new section is hereby inserted

new section 92A

in the principal immediately after section 92 of the principal enactment and

enactment. shall have effect as section 92A of that enactment:—

“Carrying on 92A. Any person who acts or holds out

the function

as a loss adjuster without being duly registered

of a loss

adjuster under this Act, shall be guilty of an offence

without and shall on conviction after summary trial

being duly

before a Magistrate, be liable to a fine not less

registered, to

be an than fifty thousand rupees or to imprisonment

offence. for a term not less than one year or to both such

fine and imprisonment.”.

Amendment of 36. Section 93 of the principal enactment is hereby

section 93 of the

principal amended by the substitution for the words “or any rule made

enactment. under this Act;”, of the words “or any regulation, rule or

order made under this Act or any conditions imposed or

determinations made by the Board under this Act,”.

Amendment of 37. Section 94 of the principal enactment is hereby

section 94 of

amended as follows:—

the principal

enactment.

(1) in subsection (1) of that section, by the substitution

for the words “and appoint as its principal officer”,

of the words “and with the approval of the Board,

appoint as its principal officer,”; and

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(2) by the insertion immediately after subsection (1) of

that section, of the following new subsection:—

“(1A) The disqualifications specified in the

Second Schedule to this Act, shall mutatis mutandis

apply to and in regard to the disqualifications

applicable to a person employed as a principal

officer under subsection (1).”.

38. The following new section is hereby inserted Insertion of a

new section 94A

immediately after section 94 of the principal enactment and in the principal

shall have effect as section 94A of that enactment:— enactment.

“Board to be 94A. Where after the registration of any

informed of person as an insurer, broker or loss adjuster, as

any alteration

in the the case may be, any alteration or a change is

particulars made in the information or particulars

submitted contained in an application made by that

with an person under section 14, section 81 or section

application

for 89C of this Act, it shall be the duty of such

registration. insurer, broker or the loss adjuster, as the case

may be, to forthwith furnish to the Board a full

authenticated statement of such alteration or

change.”.

39. The following new section is hereby inserted Insertion of new

section 95A in

immediately after section 95 of the principal enactment and

the principal

shall have effect as section 95A of that enactment:— enactment.

“Board to 95A. The Board shall have the authority

require by rules made in that behalf, to require the paid

increase of

up share capital of insurers and brokers to be

paid-up share

capital. increased and it shall be the duty of all insurers

and brokers, as the case may be, to comply

with such requirement.”.

40. The following new sections are hereby inserted Insertion of new

sections 96A and

immediately after section 96 of the principal enactment and

96B in the

shall have effect as section 96A and section 96B of that principal

enactment:— enactment.

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“Board to 96A. The Board may with a view to

give safeguarding the interests of policy holders

directions.

and potential policy holders, issue directions

to insurers, brokers and loss adjustors, as the

case may be, and it shall be the duty of every

such insurer, broker and loss adjustor, as the

case may be, to comply with any directions so

issued.

Determination 96B. Any determination of the Board

made to be which is not required to be made by rules made

communicated

forthwith. in that behalf and which relates to insurers,

brokers or loss adjustors, as the case may be,

shall immediately upon such determination

being made, be communicated to all such

insurers, brokers and loss adjustors, as the case

may be, to whom such determination relates.”.

Amendment of 41. Section 97 of the principal enactment is hereby

section 97 of the

amended by the substitution for the words “served on any

principal

enactment. insurer,”, of the words “served on any insurer or broker,”.

Amendment of 42. Section 98 of the principal enactment is hereby

section 98 of the

amended as follows:—

principal

enactment.

(1) by the substitution for the words “policy of long

term insurance business”, of the words “policy of

long term insurance business or general insurance

business”; and

(2) in the marginal note to that section, by the

substitution for the words “arising under long term

insurance business”, of the words “arising under

long term or general insurance business”.

Amendment of 43. Section 99 of the principal enactment is hereby

section 99 of the

amended as follows:—

principal

enactment.

(1) by the repeal of subsection (3) of that section ; and

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(2) in subsection (4) of that section, by the substitution

for the words “means a document inviting” and for

the words “includes any document which contains

information”, of the words “means an invitation

appearing in any media, including by any

electronic means, inviting” and of the words

“includes any information”, respectively.

44. Section 100 of the principal enactment is hereby Replacement of

section 100 of

repealed and the following section is substituted therefor:—

the principal

enactment.

“Prohibition 100. No insurer or broker shall without the

against prior written approval of the Board, carry on

carrying on

any insurance business other than, in the case

business

other than of an insurer, the specified class or sub-class of

those for insurance business or in the case of a broker,

which a the class of insurance business, in respect of

licence or

which such insurer or broker has obtained from

registration is

issued. the Board under this Act a licence or

registration, as the case may be.”.

45. Section 102 of the principal enactment is hereby Amendment of

section 102 of

amended in subsection (3) of that section, by the substitution

the principal

for the words “in accordance with the guidelines issued” to enactment.

the end of that subsection, of the words “in accordance with

the rules pertaining to takeovers and mergers made under

the Securities and Exchange Commission of Sri Lanka Act,

No. 36 of 1987, wherever applicable.”.

46. Section 113 of the principal enactment is hereby Amendment of

section 113 of

amended in subsection (3) of that section, by the substitution

the principal

for the words “he or she shall,”, of the words “such insurer enactment.

shall,”.

47. Section 114 of the principal enactment is hereby Amendment of

amended as follows:— section 114 of

the principal

enactment.

(1) in the definition of the expression “insurance agent”,

by the substitution for the words “an individual”,

of the words “a person”;

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(2) in the definition of the expression “insurer” by the

substitution for the words “company registered” in

that definition of the words “person registered”;

(3) by the insertion immediately after the definition of

the expression “licensed commercial bank”, of the

following new definition:—

“licensed stock exchange” means a stock exchange

licensed under the Securities and Exchange

Commission of Sri Lanka Act, No. 36 of 1987;”;

(4) by the insertion immediately after the definition of

the expression “local authority security”, of the

following new definition:—

“loss adjuster” means a person who has specialized

knowledge in investigating and who is assessing

losses arising from insurance claims and

registered as a loss adjuster under the provisions

of this Act.

(5) by the repeal of definition of the expression

“Registrar of Companies”, and the substitution

therefor of the following definition:—

“Registrar-General of Companies” means a person

by name or by office appointed to be or to act as

the Registrar-General of Companies under

section 471 of the Companies Act, No. 7 of 2007

and includes any Deputy-Registrar General or

Assistant Registrar-General appointed under that

section;”; and

(6) in the definition of the expression “Securities

Exchange Commission of Sri Lanka” by the

substitution for the words “Securities Exchange

Commission” wherever those words appear in that

definition, of the words “Securities and Exchange

Commission of Sri Lanka”.

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48. The Schedule to the principal enactment is hereby Amendment of

amended by the re-numbering of that Schedule as the First the Schedule to

the principal

Schedule to that enactment.

enactment.

49. The following new Schedule is hereby added Addition of new

immediately after the re-numbered First Schedule to the Schedule to the

principal

principal enactment and shall have effect as the Second enactment.

Schedule to that enactment:—

“SECOND SCHEDULE [Section 31A]

DISQUALIFICATIONS FOR BEING ADIRECTOR OF AN INSURER

A person shall not be eligible to be appointed, elected or

nominated as a director of an insurer, if such person:—

(a) does not possess academic or professional

qualifications or have effective experience in

insurance, finance, business or of any other relevant

discipline;

(b) has served as a member or an employee of the Board

at any time during the period of three years prior

to being appointed, elected or nominated as a

director of the insurer;

(c) has been convicted by any competent court in Sri

Lanka or of any other country, for a crime committed

in connection with financial management or of any

offence involving moral turpitude;

(d) has been declared an undischarged insolvent or a

bankrupt under any law of Sri Lanka or of any other

country;

(e) has failed to satisfy any judgment or order given by

any competent court in Sri Lanka or of any other

country, pertaining to the repayment of a debt;

(f) has been declared by a competent court in Sri Lanka

or of any other country, to be of unsound mind;

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(g) has been removed or suspended by an order of a

regulatory or supervisory authority from serving as

a director, chief executive officer or any other

position of authority in any insurance company,

broker, bank, financial institution or corporate

body, within or outside Sri Lanka; or

(h) has been a director, chief executive officer,

principal officer, specified officer or held any other

position of authority in any insurance company,

broker, bank, financial institution or corporate

body—

(i) whose licence or other authority granted for

operating as an insurance company or broker

or bank or financial institution, has been

suspended or cancelled ; or

(ii) which has been wound up or is being wound

up, or which is being compulsorily

liquidated.

within or outside Sri Lanka.”.

Sinhala text to 50. In the event of any inconsistency between the

prevail in case Sinhala and Tamil texts of this Act, the Sinhala text shall

of

prevail.

inconsistency.

Registered 51. Where on the date of the coming into operation of

brokers having a this Act, a director or the chief executive officer of a holding

director or the

company of any broker registered under section 82 of the

chief executive

officer of a principal enactment, is a director, shareholder or an employee

holding of an insurer, then, notwithstanding the amendment made to

company of section 84 of the principal enactment by section 28 of this

such broker as a Act, the registration of such broker shall not be suspended

director,

or cancelled nor a renewal of such registration be refused,

shareholder or

an employee of without the director or the chief executive officer concerned

an insurer. being granted by the Insurance Board of Sri Lanka, a

reasonable period of time within which to dispose of the

shares being held or relinquishing such directorship or

employment, as the case may be.

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52. (1) Every insurer who on the date of the coming Insurers holding

into operation of this Act holds a valid licence issued under a licence to be

listed on a

section 15 of the principal enactment, shall be required within

licensed stock

five years from the date of the coming into operation of this exchange.

Act, to have itself listed on a stock exchange licensed under

the Securities and Exchange Commission of Sri Lanka Act,

No. 36 of 1987 after having where so required to fulfill the

segregation requirements specified in section 53 of this Act.

(2) It shall be the duty of an insurer upon obtaining a

listing on a stock exchange as required by subsection (1) of

this section, to forthwith inform the Insurance Board of Sri

Lanka of such fact by a written communication.

(3) A failure by an insurer to comply with the requirements

imposed by this section may, notwithstanding anything to

the contrary contained in any provisions of the principal

enactment, be a ground for the suspension or cancellation of

the licence issued to such insurer.

53. Where on the date of the coming into operation of Insurers to

this Act, an insurer is engaged in carrying on both long term segregate their

long term and

insurance business and general insurance business in terms

general

of a valid licence issued by the Insurance Board of Sri Lanka insurance

under the principal enactment, such insurer shall be required business.

within four years from the date of the coming into operation

of this Act, to segregate the long term insurance business

and the general insurance business being carried on by it,

into two seperate companies.

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