

ACTS SUPPLEMENT

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Act 13

*Insurance (Amendment) Act*

2011

THE INSURANCE (AMENDMENT) ACT, 2011

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## THE INSURANCE (AMENDMENT) ACT, 2011

**An Act to amend the Insurance Act; to provide definitions for the terms used in the Act; to provide for the regulation of health insurance, health membership insurance, micro insurance and bancassurance; to provide for the membership of the Insurance Institute of Uganda; to provide for the insurance training levy; to provide for the protection of the Authority from liability; to rename the Uganda Insurance Commission as the Insurance Regulatory Authority of Uganda; to provide for arbitration as an additional function of the Authority; to provide for the composition of the Authority; to provide additional grounds for winding up insurers; to provide for the establishment of the Policyholders' Compensation Fund; to establish the Insurance Appeals Tribunal; to provide for an increase in the fines and for related matters.**

**DATE OF ASSENT:** 8th August, 2011.

*Date of Commencement:* 2nd September, 2011.

**BE IT ENACTED** by Parliament as follows:

## PART I—AMENDMENTS TO PART I OF THE PRINCIPAL ACT

**1. Amendment of section 1 of principal Act**

Section 1 of the Insurance Act, in this Act referred to as the principal Act, is amended by substituting for “risk inspectors” the words “risk managers”.

**2. Amendment of section 2 of principal Act**

Section 2 of the principal Act is amended—

- (a) by inserting the following definitions in the appropriate alphabetical order—

“actuary” means a person who is a member, an associate or a fellow of a professional institute, faculty, society or association of actuaries, recognized as such by the Authority and who is authorised by that institute, faculty, society or association to certify actuarial valuations of life insurance business;

“admitted assets” includes any properties, security, items or interest of a person but does not include—

- (a) unsecured loans;
- (b) mortgaged assets;
- (c) unpaid premium which is due by more than three months;
- (d) intangible assets;
- (e) prepaid preliminary expenses;
- (f) assets held outside Uganda, except assets owed by foreign re-insurers;
- (g) any other assets as may be determined by the Authority;

“admitted liabilities” means liabilities shown as current contingents or as prospective liabilities in the accounts of an insurer and includes liabilities in respect of a policy of long term insurance business, but does not include—

- (a) liabilities in respect of share capital;
- (b) liabilities in respect of such matters as the Authority may by notice on writing direct;

“claim settling agent” means a person licensed under this Act to undertake the business of settling and negotiating the settlement of an insurance claim, on behalf of an insurer, under a policy issued by the insurer within or outside Uganda;

“currency point” has the value assigned to it in Schedule 1;

“director” means a director of the governing body of an insurer, a broker or an adjuster;

“document” includes accounts, deeds, letters, writings, books and any other records of information however compiled, recorded or stored, whether in a written or printed form, on microfilm or in any other form;

“health insurance organisation” means a person engaged in the business of undertaking liability in respect of funding healthcare, by way of insurance;

“health membership organisation” means a person engaged in the business of undertaking liability in respect of funding healthcare, by way of membership;

“insurance surveyor” means a person who engages in surveying risks and in advising on the rate and terms and conditions of premiums;

“licence” means a licence issued under this Act;

“life insurance fund” means the total of the reserves specified under section 47 (3);

“loss assessor” means a person licensed under this Act to undertake the business of assessing and investigating losses and who may settle losses on behalf of an insurer or an insured;

“micro insurance” means insurance for the protection of low-income people against specific perils in exchange for regular premium payments proportionate to the likelihood and cost of risk involved;

“non-life insurance fund” means the total of reserves specified under section 47 (2);

“person” includes any company or association or body of persons corporate or unincorporated;

“premium” means the consideration for entering into an insurance contract;

“principal officer” means an officer responsible for the general control and supervision of the insurance business of a person licensed under this Act;

“risk manager” means a person who does the business of minimising losses which arise from unforeseen events and who minimises the cost of the losses by arranging physical or financial measures through insurance or any other means;

“Tribunal” means the Insurance Appeals Tribunal established under Part VIIIA of this Act;”;

- (b) by substituting for the definition of “loss adjuster” the following—

““loss adjuster” means a person registered under this Act to undertake the business of professional loss adjustment for and on behalf of an insurer, an insured or any other person and who may in addition settle claims on behalf of an insurer;”;

- (c) by repealing the definition of “commission” and replacing it in the appropriate place, with the following new definition—

““Authority” means the Insurance Regulatory Authority of Uganda established under Part II of this Act;”.

### 3. Amendment of section 5 of principal Act

Section 5 of the principal Act is amended—

- (a) by renumbering the existing provision as (1);
- (b) by inserting immediately after paragraph (b) (xiii), the following—

“(xiiia) health insurance;

(xiiib) health membership;

(xiiic) micro insurance;

(xiiid) bancassurance;”;

- (c) by inserting immediately after paragraph (c) the following—

“(2) No person shall transact the business of life insurance and non-life insurance as a composite company.”

### 4. Amendment of section 6 of the principal Act

Section 6 of the principal Act is amended—

- (a) by inserting in subsection (1), the words "maintained at all times" between the words "has' and "a";

- (b) by inserting in subsection (2) the words “maintained at all times” between the words “has’ and “a”;
- (c) by inserting immediately after subsection (3), the following—

“(3a) Notwithstanding subsections (1) and (2), a health insurance organisation, a health membership organisation, a micro insurance organisation or an insurance company set up for the purposes of regional cooperation shall have a paid up capital as may be prescribed by regulations.”

#### **5. Amendment of section 7 of principal Act**

Section 7 of the principal Act is amended—

- (a) by substituting for subsection (1) the following—

“(1) Every insurer shall hold in an account maintained by the insurer for the purpose, a security deposit of at least 10 per cent of the capital of the insurer.”;

- (b) by substituting for subsection (3) the following—

“(3) The deposits made under subsection (1) shall be invested by the insurer in Government securities or any other investment as may be approved by the Authority.”

#### **6. Amendment of section 8 of principal Act**

Section 8 of the principal Act, is amended by substituting for “10 percent” appearing in paragraph (a), “50 percent”.

#### **7. Amendment of section 11 of principal Act**

Section 11 of the principal Act is amended by inserting immediately after subsection (2), the following—

“(3) A member of the board of directors of an insurance company shall not at the same time serve as a member of the board of directors of another insurance company or of an insurance brokerage company in Uganda.”

**8. Amendment of section 12 of principal Act**

Section 12 of the principal Act is amended by substituting for “as an officer” appearing in subsection (1), the words “for an insurance company”.

## PART II—AMENDMENTS TO PART II OF THE PRINCIPAL ACT

**9. Amendment of section 14 of the principal Act**

Section 14 of the principal Act is amended by substituting for “a Uganda Insurance Commission” the words “the Insurance Regulatory Authority of Uganda”.

**10. Amendment of section 15 of principal Act**

Section 15 of the principal Act is amended—

- (a) by substituting for subsection (2) (c) the following—

“(c) approve texts of policies and proposal forms;”;

- (b) by substituting for subsection (2) (f) the following—

“(f) receive complaints from members of the public on the conduct of a person licensed under this Act and arbitrate and grant restitution to the complainant, as may be possible;”.

**11. Amendment of section 17 of principal Act**

Section 17 of the principal Act is amended—

- (a) by inserting immediately after subsection (1) (b), the following new paragraph—

“(ba) a representative of the Ministry responsible for finance, who shall be at the rank of director;”;

- (b) by substituting for subsection (1) (c) the following—

“(c) the Chief Executive Officer, who shall have no voting rights;”;

(c) by substituting for subsection (1) (d) the following—

“(d) a representative of the Governor of the Bank of Uganda;”;

(d) by substituting for subsection (1) (e) the following—

“(e) a representative of the Insurance Institute of Uganda, who shall not be a director, employee or shareholder of any insurer, intermediary, loss assessor or loss adjustor;”;

(e) by substituting for subsection (1) (f) the following—

“(f) a person nominated by the Minister responsible for health, who shall not be a director, employee or shareholder of any person licensed under this Act;”;

(f) by inserting immediately after subsection (5) the following—

“(6) A member of the Authority shall not disclose any information, or use any proprietary information, concerning a person licensed under this Act, obtained in the course of performance of his or her duties as a member of the Authority, for the purposes of attaining a business advantage or personal financial gain.”

## **12. Amendment of section 21 of principal Act**

Section 21 of the principal Act is amended by inserting immediately after subsection (2) the following—

“(2a) The Chief Executive Officer shall hold office for a term of five years and shall be eligible for reappointment.

(2b) The Chief Executive Officer shall be removed from office where he or she—

(a) is guilty of grave misconduct or willful neglect in the discharge of his or her duties;

- (b) is adjudged bankrupt or fails to make any arrangements or composition with his or her creditors;
- (c) becomes of unsound mind;
- (d) is convicted of a criminal offense which affects his or her position as the Chief Executive Officer;
- (e) becomes permanently incapacitated by accident or ill health from performing his duties for a period of six consecutive months or an aggregate period of nine months in a financial year; or
- (f) fails to perform his or her duties and obligations as specified in the terms and conditions specified by the Authority.”

**13. Amendment of section 22 to principal Act**

Section 22 of the Principal Act, is amended by substituting for the word “Secretary to the Commission” the word “Secretary to the Authority”.

**14. Amendment of section 24 of principal Act**

Section 24 of the principal Act, is amended by substituting for “the central bank” appearing in subsection (3), the word “Government”.

**15. Amendment of section 25 of principal Act**

Section 25 of the principal Act, is amended by substituting for “central bank” appearing in paragraphs (a) and (b), the word “Minister”.

**16. Amendment of section 26 of principal Act**

Section 26 of the principal Act, is amended by substituting for subsection (2) the following—

“(2) The accounts and records of the Authority shall be kept in accordance with the Public Finance and Accountability Act, 2003.”

## PART III—AMENDMENTS TO PART III OF THE PRINCIPAL ACT

**17. Amendment of section 29 of the principal Act**

Section 29 of the principal Act is amended by inserting at the end of subsection (2)(h) the words, “certified by an auditor approved by the Authority;”.

**18. Amendment of section 32 of principal Act**

Section 32 of the principal Act is amended by substituting for subsection (2) (b) the following—

“(b) may be renewed on application, in the prescribed form and after payment of the prescribed fees; and”.

**19. Amendment of section 33 of principal Act**

Section 33 of the principal Act, is amended—

(a) by substituting for subsection (1) (c) the following—

“(c) the relevant minimum prescribed paidup capital or security deposit requirements specified in Part 1 of this Act, have not been complied with by the insurer or that the net assets of the insurer are below the minimum prescribed paid up capital;”;

(b) by repealing the word “first” appearing in subsection (1) (f);

(c) by inserting immediately after subsection (1) (j), the following—

“(k) the insurer has refused or failed to abide by the decision of the Authority, to settle a claim or complaint in accordance with section 15 (2) (f).”;

(d) by substituting for subsection (5) the following—

“(5) An insurer may within thirty days from the receipt of the communication of the Authority of the suspension or revocation of his or her licence, appeal to the Tribunal”;

- (e) by substituting for subsection (8) the following—

“(8) The Authority shall publish in the Gazette and a newspaper widely read by the people in the area where the registered office of the affected insurer is located, any revocation or suspension of the licence of the insurer or any reinstatement or relicensing of the affected insurer, as soon as is practicable.”

## **20. Insertion of section 33A to principal Act**

The principal Act is amended by inserting immediately after section 33, the following—

### **“33A. Licensing of health insurance organisations and health membership organisations**

(1) A person proposing to transact business as a health insurance organisation or a health membership organisation shall be licensed as such by the Authority.

(2) Health insurance organisations and health membership organisations shall be regulated in accordance with regulations made under this Act, in consultation with the Minister responsible for health and other stakeholders.”

## **PART IV—AMENDMENTS TO PART IV OF THE PRINCIPAL ACT**

## **21. Amendment of section 34 of principal Act**

Section 34 of the principal Act, is amended—

- (a) by substituting for subsection (1) the following—

“(1) An insurer shall not allow credit on the premium payable for more than thirty days from the date of the inception or renewal of the policy and may, subject to the provisions of the policy, opt out of the risk, except where the business emanated from an insurance broker licensed under this Act.

- (b) by inserting immediately after subsection (2) the following—

“(3) Where an insurer allows credit on premium under a policy, the insurer shall be liable to pay any claims that may arise from the policy.”

**22. Amendment of section 37 of principal Act**

Section 37 of the principal Act is amended—

- (a) by renumbering the existing provision as (1);
- (b) by inserting immediately after subsection (1) the following—

“(2) An insurer who violates this section is liable to a fine of twenty percent of the premium received or the fine imposed under section 97 (4) (b), whichever is higher.”

**23. Amendment of section 40 of the Principal Act**

Section 40 of the principal Act is amended, by substituting for "intermediary" the words "any other person".

**24. Repeal of section 41 of principal Act**

Section 41 of the principal Act is repealed.

**25. Amendment of section 42 of principal Act**

Section 42 of the principal Act is amended—

- (a) by substituting for subsection (1) (a) the following—

“(a) a loan on a life policy limited to the policy's surrender value, where the right to borrow the same amount is also provided to the other policy holders of that class; or”;

- (b) by inserting immediately after subsection (1) the following—

“(1a) Notwithstanding subsection (1), the total aggregate of the loan given to a director of an insurer shall not exceed ten percent of the paid up capital of the insurer.”

**26. Amendment of section 44 of principal Act**

Section 44 of the principal Act, is amended by substituting for subsection (1) (b) the following—

“(b) in the case of non-life insurance business or reinsurance, the admitted assets of the insurer shall exceed the greater of—

- (i) the admitted liabilities of the insurer, by a minimum of fifteen percent of the premium income, net of reinsurance sessions; or
- (ii) such sum as may be prescribed by the Authority, in consultation with the Minister.”

**27. Repeal of subsection (1) of section 46 of principal Act**

Subsection (1) of section 46 of the principal Act is repealed.

**28. Amendment of section 47 of principal Act**

Section 47 of the principal Act, is amended—

- (a) by substituting for the words “unexpired risks” appearing in subsections (1) and (2) the words, “unearned premiums”;
- (b) by substituting for subsection(2)(b) the following—

“(b) reserves for outstanding claims, a sum equal to the total estimated amount of all outstanding reported claims together with an additional amount of not less than 15 per cent of the total amount of outstanding reported claims, in respect of claims incurred but not reported at the end of the last preceding year or such amount as the Authority may determine;”;