

GOVERNMENT OF ZAMBIA

**ACT**

No. 26 of 2005

Date of Assent: 23rd December, 2005

**An Act to amend the Insurance Act.**

[ 23rd December, 2005

ENACTED by the Parliament of Zambia.

Enactment

1. This Act may be cited as the Insurance (Amendment) Act, 2005, and shall be read as one with the Insurance Act, 1997, in this Act referred to the principal Act.

Short title

Act No. 27  
of 1997

2. Section *two* of the principal Act is amended —

Amendment  
of section 2

(a) by the deletion of the definitions “ Administration Fund ”,  
“ Board ”, “ Chairperson ” and “ Council ”;

(b) in the definition of “ child ” by the insertion of the words  
“ an unborn child ” after the words, “ step child ”; and

(c) by the insertion in the appropriate places of the  
following new definitions:

“ Authority ” means the Pensions and Insurance  
Authority established by section *four* of the  
Pension Scheme Regulation Act;

Act No. 28  
of 1996

“ Board ” means the Pensions and Insurance  
Authority Board established by section *six* of the  
Pension Scheme Regulation Act;

Act No. 28  
of 1996

“ Committee ” means the Policy Holders’ Protection  
Committee referred in section *one hundred and*  
*six*; and

“ long term insurance business ” means insurance business of such classes as the Minister may, on the recommendation of the Board, by statutory instrument, prescribe.

Amendment  
of section 3

3. Section *three* of the principal Act is amended —
- (a) in subsection (1) by the deletion of the words “ two classes namely ” after the words “ divided into ”;
  - (b) in paragraph (a) of subsection (1) by the deletion of the word “ life ” and the substitution therefor of the words “ long term ”;
  - (c) in subsection (2) by the deletion of the word “ life ” and the substitution therefor of the words “ long term ”; and
  - (d) by the insertion immediately after subsection (3) of the following new subsections:

(4) Subject to subsection (5), no insurer may transact both general and long term insurance business.

(5) Notwithstanding subsection (4), an insurer transacting both general and long term insurance business immediately before the coming into operation of this Act shall be permitted to transact both general and long term insurance business for a period not exceeding one year from the date on which this Act comes into operation:

Provided that the Zambia State Insurance Corporation may be permitted to transact both general and long term insurance business for such longer period not exceeding three years from the date on which this Act comes into operation as the Minister may, in consultation with the Board, in writing authorise.

Amendment  
of section 5

4. Section *five* of the principal Act is amended in subsection (1) by the insertion after the word “ company ” of the words “ or partnership ”.

Amendment  
of section 13

5. Section *thirteen* of the principal Act is amended in subsection (3) —

(a) by the deletion in paragraph (b) of the full stop and the substitution therefor of a semi-colon and the word “ and ”; and

(b) by the insertion after paragraph (b) of the following new paragraph:

(c) the applicant is able to meet such minimum financial or other criteria as may be prescribed under this Act.

6. The principal Act is amended by the insertion immediately after section *fourteen* of the following new section:

Insertion of new section 14A

14A. A person shall not carry on business as an insurance risk surveyor unless that person is registered and licensed as such under this Act.

7. Section *twenty* of the principal Act is amended in paragraph (b) by the deletion of the word “insurer” and the substitution therefor of the word “broker”.

Conduct of business as surveyor

8. Section *twenty-one* of the principal Act is amended —

Amendment of section 20

(a) in subsection (1) by the deletion of the word “sixty” after the word “within” and the substitution therefor of the word “thirty”;

(b) by the deletion of subsection (2) and the substitution therefor of the following subsection:

(2) If the broker contravenes subsection (1) the broker shall, in addition to the outstanding premium, pay to the insurer interest on the premium at the Bank of Zambia rate; and

(c) by the insertion immediately after subsection (3) of the following new subsections:

(4) All moneys received by a broker either from, or for, a client shall be deposited in a separate client account and shall not in any circumstances be mixed with moneys belonging to the broker provided that moneys earned by way of interests on sums deposited in such client accounts shall accrue to the benefit of the broker.

(5) The Registrar may require a broker to disclose where the client accounts referred to in subsection (4) are maintained and in what form they are maintained.

(6) No client account shall be maintained in a bank in which the broker or a director of such broker has a financial interest.

(7) A broker shall prepare, as at 31st March, 30th June, 30th September and 31st December of each year, a statement in the prescribed form showing the premium due to insurers from the broker for the prescribed durations and shall furnish each such statement, duly signed, to the Registrar within two months after the end of the period to which it relates.

Amendment  
of section 26

9. Section *twenty-six* of the principal Act is amended in subsection (1) by the insertion after the words " who shall be " of the words " the principal officer of the insurer or broker and shall be ".

Amendment  
of section 29

10. Section *twenty-nine* of the principal Act is amended by the deletion of " *twenty-nine* " and the substitution therefor of " *twenty-eight* ".

Amendment  
of section 37

11. Section *thirty-seven* of the principal Act is amended in subsection (1) by the deletion of the word " ninety " and the substitution therefor of the words " one hundred and twenty ".

Amendment  
of section 38

12. Section *thirty-eight* of the principal Act is amended in paragraph (i) of subsection (2) by the insertion of the words " on the recommendation of the board " after the words " the Minister may ".

Amendment  
of section 41

13. Section *forty-one* of the principal Act is amended in subsection (1) by the insertion of the words " on the recommendation of the Board " after the words " the Minister may ".

Amendment  
of section 43

14. Section *forty-three* of the principal Act is amended by the insertion of the words " on the recommendation of the Board " after the words " the Minister may ".

Insertion  
of new  
section  
44A

15. The principal Act is amended by the insertion immediately after section *forty-four* of the following new section:

Investment  
of funds

44A. (1) An insurer may invest in such type of investment as may be approved by the Registrar.

(2) The Minister may, on the recommendation of the Board, by statutory instrument, issue investment guidelines to insurers relating to the limits for investment categories.

16. The principal Act is amended by the insertion immediately after section *forty-five* of the following new section:
- Insertion  
of new  
section  
45A
- 45A. The financial year for every insurer and insurance broker shall be a period of twelve months ending on 31st December in each year.
- Financial  
year of  
Insurer and  
insurance  
broker
17. The principal Act is amended by the repeal of section *sixty-three* and the substitution thereof of the following new section:
- Repeal and  
replacement  
of  
section 63
63. (1) An insurer or broker shall, with the prior approval of the Registrar, given in writing, appoint an auditor and shall notify the Registrar of the dismissal of such auditor within seven days after the dismissal.
- Appointment  
and dismissal  
of auditor
- (2) Where an auditor is dismissed or fails to be re-appointed at the annual general meeting the insurer or broker shall, by written notice to the Registrar, specify the reason for the dismissal or failure to re-appoint.
18. Section *seventy-six* of the principal Act is amended by the deletion of the word “sixty” and the substitution thereof of the word “thirty”.
- Amendment  
of section 76
19. Section *eighty-nine* of the principal Act is amended in paragraph (a) by the deletion of the word “assigned” and the substitution thereof of the word “ceded”.
- Amendment  
of section 89
20. Section *ninety-one* of the principal Act is amended in subsection (1) by the deletion of the word “assignment” and the substitution thereof of the word “cession”.
- Amendment  
of section 91
21. Section *ninety-two* of the principal Act is amended—
- Amendment  
of section 92
- (a) in paragraph (a) by the deletion of the word “inured” and the substitution thereof of the word “insured”;
- (b) in paragraph (c) by the insertion after the word “date of birth of the insured” of the words “unless the contrary is proved by records of a medical examination of the insured”.
22. Section *ninety-four* of the principal Act is amended—
- Amendment  
of section 94
- (a) by the deletion of subsection (1) and the substitution thereof of the following new subsections:
- (1) No life policy in which it is provided that the policy shall be void in the event of the insured,

whether sane or insane, dying by the insured's own act within a stipulated period shall be void for that reason if the insured died by the insured's own act after the expiration of that period.

(2) A life policy in which no provision such as is referred to in subsection (1) is contained shall not be void by reason of the insured, whether sane or insane, dying by the insured's own act at any time after the issue of the policy; and

(b) by the renumbering of subsection (2) as subsection (3).

Amendment  
of section 99

23. Section *ninety-nine* of the principal Act is amended—

(a) by the deletion of subsections (2) and (3) and the substitution therefor of the following new subsection:

(2) In the performance of functions under this Act the Registrar—

(a) shall be subject to the direction of the Pensions and Insurance Authority Board; and

(b) shall at all times have regard to the need to protect the rights, benefits and other interests of policy holders and any beneficiaries of policies of insurance;.

(b) in subsection (4) by the deletion of the word "Registrar" and the substitution therefor of the word "Board"; and

(c) by the renumbering of subsection (4) as subsection (3).

Repeal of  
section 100

24. The principal Act is amended by the repeal of section *one hundred*.

Amendment  
of section  
101

25. Section *one hundred and one* of the principal Act is amended—

(a) in subsection (1) by the deletion of the words "member of the insurance industry" and the substitution therefor of the words "person regulated under this Act";

(b) by the insertion after subsection (8) of the following new subsections:

(9) For the purposes of checking and verifying any information supplied to the Registrar under this Act or regulations made thereunder, the Registrar or

any person authorised by the Registrar in writing may examine the books, vouchers, receipts and such other documents, as the Registrar may consider necessary, of a member.

(10) As a result of an examination carried out under subsection (9), the Registrar may cause such investigation as the Registrar considers necessary to be carried out into the affairs of a member and such investigation may include a special audit by an auditor named by the Registrar.

(11) The officers or agents of the member shall cause the books of the member to be available for examination or investigation so far as it is in their power.

(12) The Registrar shall cause a summary of the conclusions arrived at as a result of an investigation carried out under this section to be sent to the member concerned.

(13) The Registrar may recover from the member concerned all expenses necessarily incurred in connection with an investigation carried out under subsection (10) where such investigation reveals that the member supplied false or fraudulent information.

(14) Where an examination or investigation carried out under this section reveals that the information supplied by a member was fraudulent or false, the Registrar shall dismiss such information.

26. The principal Act is amended by the repeal of section *one hundred and three* and the substitution thereof of the following new section:

Repeal and  
replacement  
of section  
103

103. The Board shall, within six months after the end of each calendar year, submit to the Minister a report on the Authority's activities in relation to this Act and on the state of the insurance industry during that year.

Annual  
report

27. The principal Act is amended by the repeal of sections *one hundred and four* and *one hundred and five*.

Repeal of  
sections 104  
and 105

Repeal and  
replacement  
of section  
106

28. The principal Act is amended by the repeal of section *one hundred and six* and the substitution therefor of the following new section:

Establishment  
of Committee

106. (1) The Board shall constitute a Policy Holders' Protection Committee which shall consist of—

- (a) a representative of the Ministry responsible for finance and national planning who shall be the Chairperson;
- (b) one representative of the Zambia Institute of Certified Accountants;
- (c) one person nominated by an organisation which is representative of the insurers;
- (d) one person nominated by an organisation which is representative of the insurance brokers; and
- (e) two persons representing policy holders.

(2) The Vice-Chairperson of the Committee shall be appointed by the Minister from among the members referred to in paragraphs (b) to (e) of subsection (1).

(3) Subject to subsection (4) a member of the Committee shall hold office for a period of two years from the date of appointment but may be eligible for re-appointment for a further term of two years.

(4) The office of a member shall become vacant—

- (a) if that member is absent without reasonable excuse from three consecutive meetings of the Committee of which the member had notice;
- (b) upon the member's death;
- (c) if the member is adjudged bankrupt;
- (d) if the member becomes mentally or physically incapable of performing the duties of a member of the Committee; or
- (e) the member is convicted of an offence under any written law and sentenced therefor to imprisonment for a term exceeding six months.

(5) Where a vacancy occurs in terms of subsection (4), the Board may appoint a new member in accordance with subsection (1), to hold office for the unexpired part of that member's term.

(6) A member of the Committee shall be paid such allowances as the Board may, with the approval of the Minister, determine.

(7) The Committee shall meet for the transaction of business at least once in every three months at such places, and such times as the Chairperson of the Committee may determine.

(8) The quorum at any meeting of the Committee shall be four of the members of the Committee.

(9) There shall preside at any meeting of the Committee—

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice-Chairperson; or

(c) in the absence of both the Chairperson and the Vice-Chairperson, such member as the members present may elect from their number for the purposes of that meeting.

(10) The determination of any matter before the Committee shall be according to the votes of the majority of the members present and considering the matter.

(11) The Committee may invite any person whose presence in its opinion is desirable to attend and to participate in the deliberations of a meeting of the Committee but such person shall have no vote.

(12) The Committee shall cause minutes to be kept of the proceedings of every meeting of the Committee.

**29.** The principal Act is amended by the repeal of section *one hundred and seven* and the substitution thereof of the following new section:

Repeal and replacement of section 107

107. The Committee shall—

Functions of Committee

(a) subject to the direction of the Board, be responsible for the administration of the Fidelity Fund and for the settlement of claims against that Fund; and

(b) have such other functions as may be conferred on it by the Board.

**30.** The principal Act is amended by the repeal of section *one hundred and eight*.

Repeal of section 108

- Amendment of section 110      31. Section *one hundred and ten* of the principal Act is amended in paragraph (a) by the deletion of the word "Commissioner" and the substitution therefor of the word "Authority".
- Amendment of section 111      32. Section *one hundred and eleven* of the principal Act is amended—
- (a) in subsection (1) by the insertion of the words "on the recommendation of the Board" after the words "the Minister may"; and
- (b) in subsection (2) by the insertion of a comma and the words "by the Board" after the words "may be invested".
- Amendment of section 113      33. Section *one hundred and thirteen* of the principal Act is amended by the insertion of the words "on the recommendation of the Board" after the words "The Minister may".
- Amendment of section 114      34. Section *one hundred and fourteen* of the principal Act is amended by the insertion of the words "on the recommendation of the Board" after the words "such amount as the Minister may".
- Amendment of section 124      35. Section *one hundred and twenty-four* of the principal Act is amended in subsection (1) by the deletion of the words "The Registrar may, in consultation with the Council and if he" and the substitution therefor of the words "The Board may if the Board".
- Amendment of section 132      36. Section *one hundred and thirty-two* of the principal Act is amended in subsection (1) by the insertion of the words "on the recommendation of the Board" after the words "the Minister may".
- Repeal of section 133      37. The principal Act is amended by the repeal of section *one hundred and thirty-three*.
- Amendment of section 134      38. Section *one hundred and thirty-four* of the principal Act is amended in subsection (1) by the deletion of the words "Professional Association of Insurers" and the substitution therefor of the words "Insurers Association of Zambia".
- Repeal of Schedule      39. The principal Act is amended by the repeal of the Schedule.
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