



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**REGULATION OF INSURANCE INDUSTRY
ACT, No. 43 OF 2000**

[Certified on 9th August, 2000]

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*Regulation of Insurance Industry
Act, No. 43 of 2000*

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L.D.—O. 84/93.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF AN INSURANCE BOARD FOR PURPOSE OF DEVELOPING, SUPERVISING AND REGULATING THE INSURANCE INDUSTRY ; FOR THE REPEAL OF THE CONTROL OF INSURANCE ACT, NO. 25 OF 1962 ; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

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 Industry Act, No. 43 of 2000 and shall come into operation on such date as the Minister may appoint by Order published in the Gazette (hereinafter referred to as the “appointed date”).

Short title.

ESTABLISHMENT AND CONSTITUTION OF THE INSURANCE BOARD
OF SRI LANKA

2. (1) There shall be established a board which shall be called the Insurance Board of Sri Lanka (hereinafter referred to as the “Board”) which shall be responsible for the development, supervision and regulation of the insurance industry in Sri Lanka.

Establishment of the Insurance Board of Sri Lanka.

(2) The Board shall, by the name assigned to it by subsection (1), be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

3. The object and responsibility of the Board shall be, to ensure that insurance business in Sri Lanka is carried on with integrity and in a professional and prudent manner with a view to safeguarding the interests of the policy-holders and potential policy holders.

Object and responsibility of the Board.

4. (1) The Board shall consist of the following members :—

Constitution of the Board.

(a) Deputy Secretary to the Treasury ;

- (b) a Deputy Governor of the Central Bank of Sri Lanka nominated by the Monetary Board ;
- (c) the Director-General of the Securities and Exchange Commission of Sri Lanka ;
- (d) four members appointed by the Minister from among persons who have had academic or professional qualifications and experience in the field of insurance, commerce, financial management, business management, economics, law or any other related field (in this Act referred to as “appointed members”).

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

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

Powers, duties
and functions of
the Board.

5. For the purpose of fulfilling its object and responsibility, the Board may exercise, perform and discharge all or any of the following powers, duties and functions—

- (a) register as insurers persons carrying on insurance business in Sri Lanka ;
- (b) register persons as insurance brokers ;
- (c) advise the Government on the development and regulation of the insurance industry ;
- (d) implement the policies and programmes of the Government with respect to the insurance industry ;
- (e) employ such officers and servants as may be necessary for the purpose of exercising, performing and discharging the powers, duties and functions of the Board ;

- (f) acquire and hold any property, movable or immovable and sell, lease, mortgage or otherwise dispose of the same ;
- (g) enter into all such contracts as may be necessary for the exercise, performance and discharge of its powers, duties and functions ; and
- (h) do all such other acts as may be necessary for the due exercise, discharge and performance of its powers, duties and functions under this Act.

6. (1) The Board shall have its own Fund.

Fund of the
Board.

(2) There shall be paid into the Fund of the Board—

- (a) all such sums of money as may be voted from time to time by Parliament for the use of the Board ;
- (b) all such sums of money as may be paid as registration fees under sections 14, 81 and 83 of this Act ;
- (c) all such sums of money paid by insurers as an annual fee under section 16 of this Act ;
- (d) all such sums of money as may be received by the Board in the exercise, performance and discharge of its powers, duties and functions under this Act ; and
- (e) all such sums of money as may be received by the Board by way of loans, donations, gifts and grants from any source whatsoever, whether in or outside Sri Lanka.

(3) There shall be paid out of the Fund of the Board, all such sums of money required to defray the expenditure incurred by the Board, in the exercise of its powers, discharge of its functions and performance of its duties.

Levy of Cess on
net premium
income.

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

(2) Every Order made by the Minister under this section shall come into force on the date of its publication in the Gazette or on such later date as may be specified therein, and shall be brought before Parliament for approval within four months of the date of its publication. Any such Order which is not so approved shall be deemed to be revoked from the date of disapproval, but without prejudice to the validity of anything previously done thereunder.

(3) The cess imposed under this section shall be in addition to any other tax or cess levied under any other written law.

(4) For the purpose of subsection (1) “annual net premium income” means the gross insurance premium income, less reinsurance premium.

Financial year and
audit of accounts
of the Board.

8. (1) The financial year of the Board shall be the calendar year.

(2) The Board shall cause proper books of accounts to be kept of the income and expenditure, assets and liabilities and all other transactions of the Board.

(3) The provisions of Article 154 of the Constitution relating to the audit of the accounts of Public Corporations shall apply to the audit of accounts of the Board.

Director-General

9. (1) The Minister shall, in consultation with the Board, appoint a Director-General of the Board, who shall be its chief executive officer. The conditions of employment including remuneration of the Director-General, shall be determined by the Minister.

(2) The Director-General shall attend meetings of the Board on being invited to do so by the Board, but shall not be entitled to vote at such meetings.

(3) The Director-General shall, subject to the general direction and control of the Board, be charged with the direction of the affairs and transaction of all the business of the Board in the exercise, discharge and performance of its powers, functions and duties, and the administration and control of the officers and servants of the Board.

(4) The Director-General may, with the approval of the Board, whenever he considers it necessary to do so, delegate to any officer or servant of the Board any power, function or duty conferred or imposed on or assigned to him by this Act, and such officer or servant shall exercise, discharge and perform such power, function or duty subject to the general or special directions of the Director-General.

(5) The Minister may on the recommendation of the Board, remove from office the Director-General appointed under subsection (1), for reasons assigned therefor.

10. (1) The Board may appoint such officers and servants as it considers necessary for the efficient discharge of its functions.

Staff of the Board.

(2) The officers and servants appointed under subsection (1), shall be remunerated in such manner and at such rates and shall be subject to such conditions of service as may be determined by the Board.

(3) At the request of the Board, any officer in the public service may, with the consent of the officer and the Secretary to the Ministry of the Minister in charge of the subject of Public Administration, be temporarily appointed to the staff of the Board for such period as may be determined by the Board with like consent, or with like consent be permanently appointed to such staff.

(4) Where any officer in the public service is temporarily appointed to the staff of the Board, the provisions of subsection (2) of section 14 of the National Transport Commission Act, No. 37 of 1991, shall, *mutatis mutandis*, apply to, and in relation to, such officer.

(5) Where any officer in the public service is permanently appointed to the staff of the Board, the provisions of subsection (3) of section 14 of the National Transport Commission Act, No. 37 of 1991, shall, *mutatis mutandis*, apply to, and in relation to, such officer.

(6) Where the Board employs any person who has agreed to serve the Government for a specified period, any period of service to the Board by that person shall be regarded as service to the Government for the purpose of discharging the obligations of that person under such agreement.

Appointment of officers and servants of public corporations to the staff of the Board.

11. (1) At the request of the Board, any officer or servant of a public Corporation may, with consent of such officer or servant and the governing board of such Corporation, be temporarily appointed to the staff of the Board for such period as may be determined by the Board with like consent, or with like consent be permanently appointed to the staff of the Board on such terms and conditions, including those relating to pension or provident fund rights, as may be agreed upon by the Board and the governing board of such Corporations.

(2) Where any person is appointed whether temporarily or permanently under subsection (1) to the staff of the Board, he shall be subject to the same disciplinary control as any officer or servant of the Board.

PART II

REGISTRATION OF INSURERS

Insurance business to be carried on by companies registered under this Act.

12. (1) Subject to the provisions of this Act, from and after the appointed date, no person shall carry on insurance business in Sri Lanka unless such person is for the time being registered or deemed to be registered under this Act to carry on such business.

(2) A registration under subsection (1) may be for general insurance business or for long term insurance business or for both general and long term insurance business.

(3) Notwithstanding the provisions of subsection (1), the provisions of this Act shall not apply in respect of the Agricultural and Agrarian Insurance Board established by the Agricultural and Agrarian Insurance Act, No. 20 of 1999, the Sri Lanka Export Credit Insurance Corporation established by the Sri Lanka Export Credit Insurance Corporation Act, No. 15 of 1978 and the Social Security Board established by the Social Security Board Act, No. 17 of 1996.

(4) A person registered under subsection (1) shall not carry on any form of business other than insurance business :

Provided that, a person may with the prior written approval of the Board, carry on any financial services business which is ancillary or associated with the insurance business for which a registration is obtained under this Act.

13. (1) No person shall be registered to carry on, either one or both classes of insurance business in Sri Lanka, unless such person—

Qualifications for
registration.

- (a) is a public company incorporated in Sri Lanka and registered under the Companies Act, No 17 of 1982 ;
- (b) has a paid up share capital of not less than the prescribed amount ;
- (c) pays as deposit to the Treasury such amount as may be determined by the Board, by rules made in that behalf ;
- (d) pay the prescribed fee ; and
- (e) fulfil such other requirements as may be laid down by the Board by rules made in that behalf, for the purpose of ensuring the proper conduct of insurers to safeguard the interests of the insured public and for the development of the insurance industry.

(2) For the purpose of paragraphs (b), (c) and (d) of subsection (1), different amounts may be prescribed for different classes of insurance business.

Application for
registration.

14. (1) Every application for registration under section 12, shall be made to the Board in such form as may be provided for that purpose by the Board, and be accompanied by—

- (a) a statement in writing by the applicant that the provisions of paragraphs (b) and (c) of subsection (1) of section 13 have been complied with, together with a certificate issued by the Deputy Secretary to the Treasury specifying the amount deposited under paragraph (c) of that subsection ;
- (b) the fee prescribed in respect of the class of insurance business in respect of which the application for registration is being made ;
- (c) a certified copy of the Memorandum and Articles of Association of the company applying for registration ;
- (d) a certified copy of the certificate of incorporation of the company applying for registration ;
- (e) a certified copy of the certificate to commence business issued by the Registrar of Companies ;
- (f) a statement setting out prescribed particulars relating to —
 - (i) the share holders of the company ;
 - (ii) the Directors of the company ; and
 - (iii) the officers referred to in sections 32, 46 and 94 ;

- (g) a statement setting out the class, and where necessary the sub-class of insurance business proposed to be carried on by the applicant ;
- (h) a statement setting out the details of fulfillment of requirements, if any, that were laid down by the Board under paragraph (e) of subsection (1) of section 13 ; and
- (i) a scheme of work or business plan for a period of three years.

(2) Every application under this section shall be certified by a declaration signed by the person making the application that the statement accompanying the application are true and accurate. Every such declaration shall be free of stamp duty.

(3) The Board may conduct such investigations as it may consider necessary to verify the accuracy of any details contained in the application made under subsection (1), and to determine the suitability of the applicant to be registered under this Act as an insurer.

15. (1) Where the Board is satisfied that any company making an application for registration under section 14 has complied with the provision of section 13 of this Act, and where an investigation is conducted under subsection (3) of section 14, the Board is satisfied regarding the suitability of the applicant to be registered, the Board shall register such company as an insurer and shall issue to the insurer a licence in which shall be specified the class, and where necessary the sub-class of insurance business, which such insurer is authorized to carry on.

Registration and
issue of licence.

(2) The licence issued to an insurer under subsection (1) shall be kept at all times at the principal office or place of business of the insurer, and be made available for inspection by any member of the Board, its Director-General or any person authorized by the Board for that purpose.

Annual fee.

16. (1) Every insurer shall pay to the Board as an annual fee, such sum of money as may be prescribed.

(2) The Board may prescribe different amounts as annual fee in respect of different classes of insurance business.

Alteration of
particulars
submitted.

17. Whenever, after the registration of a company under section 15, any alteration or change occurs or is made so as to affect any of the document or particulars submitted with the application for registration under subsection (1) of section 14, or were required to accompany the application for registration, the insurer shall forthwith furnish to the Board a full authenticated statement of such alteration or change.

Cancellation or
suspension of a
licence issued to
an insurer.

18. (1) The Board may cancel or suspend the registration of an insurer, either wholly or in respect of a particular class or sub-class of insurance business, for any one or more of the following reasons or grounds, namely, that the insurer:—

- (a) has not commenced business within twelve months after being registered ;
- (b) has ceased to carry on insurance business in respect of any class of business ;
- (c) proposes to make or has made any composition or arrangement with its creditors or has gone into liquidation or has been wound up or otherwise dissolved ;
- (d) is carrying on its business in a manner likely to be detrimental to the interests of its policy holders or to the development of the insurance industry or the national interest ;
- (e) is unable to meet its obligations ;
- (f) has failed to maintain the solvency margin of such amount as is determined by the Board under section 26 ;

- (g) has contravened any provision of this Act or any regulation or rule made thereunder or any condition imposed or any direction given by the Board under this Act ;
- (h) has furnished false, misleading or inaccurate information, or has concealed or failed to disclose material facts, in its application for registration ;
- (i) has ceased to be of good financial standing ;
- (j) has since the grant of the licence, been disqualified for the grant of licence ; or
- (k) is found guilty of any malpractice or irregularity in the management of his affairs.

(2) The Board may, for any one or more reasons or grounds specified in subsection (1), and by notice sent in that behalf, suspend the registration granted to an insurer for a period not exceeding three weeks, without prejudice to such insurer's responsibility to meet its obligations under policies already issued, and the insurer shall thereafter be prohibited from issuing new insurance policies until the suspension is removed.

(3) The notice referred to in subsection (2), shall specify the period of suspension and the date before which the insurer is required to show cause to the Board why such suspension should be removed.

(4) On receipt of an insurer's response to the notice sent under subsection (2), the Board may —

- (a) where an insurer shows sufficient cause why the suspension should be removed, immediately remove the suspension ; or
- (b) where the Board is not satisfied with the response of the insurer, either extend the period of suspension already imposed, or cancel the registration, as the case may be.

(5) Where the Board decides under subsection (4) to cancel or suspend for a further period the registration of an insurer, it shall be its duty to forthwith inform the insurer of the cancellation or suspension as the case may be, and in the event of an extension of a suspension for a further period, the Board shall further inform the insurer —

- (a) of the period for which the suspension is being extended ;
- (b) of the action that needs to be taken to rectify or remove the reason or ground which caused the imposition of the suspension ; and
- (c) the time within which the corrective measures referred to in paragraph (b) should be taken.

(6) Where a registration is cancelled or suspended under subsection (4), it shall be the duty of the licence holder whose licence is being cancelled or suspended as the case may be, to forthwith surrender the licence to the Board, and the Board shall thereupon —

- (a) in the case of a cancellation of a registration, cancel the licence ; or
- (b) in the case of a suspension of a registration for a specified period, make an endorsement to that effect on the face of the licence, and return the licence to the holder thereof.

(7) Notwithstanding the provisions contained in subsections (1) and (2) of this section, the Board may in lieu of a cancellation or suspension on any one or more grounds referred to in subsection (1), of a licence issued to an insurer under this Act, and where the nature of the act or omission referred to therein and which is committed by such insurer is not of such nature as to warrant a cancellation or suspension of the licence, direct the insurer to take such measures as may be determined by the Board, to—

- (a) prevent the continuance of such act or omission ;
and

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

19. (1) An insurer who is aggrieved by a decision made by the Board under section 18 may, within fourteen days of being informed of such decision, appeal therefrom to the Court of Appeal.

Appeals.

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

20. (1) Where a licence issued to an insurer under this Act is cancelled or suspended under subsection (4) of section 18, and the Board is of the view that national and public interest requires that administration and management of the insurance business of such insurer should be taken over by an administrator, the Board may inform the Minister of that fact and the Minister may, by notice published in the Gazette, appoint an administrator to manage and administer such business under the direction and control of the Board, for such period as shall be specified in the notice. The period so specified may, where necessary be extended in like manner from time to time.

Appointment of an administrator.

(2) The Board shall cause a copy of the notice to be served on the Registrar of Companies, who shall be required to make an entry in the record maintained by such Registrar, relating to such insurance company.

21. (1) Every company applying for registration as an insurer under this Act, shall keep deposited with the Deputy Secretary to the Treasury, for and on behalf of the Government of Sri Lanka, such sum of money as is determined by the Board under paragraph (c) of subsection (1) of section 13 of this Act.

deposit to be paid to the Treasury.

(2) A deposit made under subsection (1) may consist of cash or of Government securities or of Government guaranteed securities, and the value of any securities so deposited shall be taken to be their market value at the date of deposit.

(3) A deposit made in cash shall be held by the Deputy Secretary to the Treasury to the credit of the insurer, and shall be returnable to the insurer in cash in the circumstances and in the manner in which under the provisions of this Act such a deposit may be returned, and any interest accruing due on securities deposited under this section by any insurer shall, when it is collected, be paid by the Deputy Secretary to the Treasury to the insurer.

(4) An insurer may at any time substitute for the securities deposited with the Deputy Secretary to the Treasury under this section, other Government securities or Government guaranteed securities of equal value assessed at the market rate prevailing at the time of substitution, and the Deputy Secretary to the Treasury shall, on the written application of any insurer who has made a deposit, invest in Government securities or Government guaranteed securities the whole or any part of the cash received by the Deputy Secretary to the Treasury on the redemption of any securities deposited by the insurer under this Act.

(5) The Deputy Secretary to the Treasury shall, if so requested by the insurer, sell any securities deposited with him and either hold the cash realized by such sale as deposit or invest in such Government securities or government guaranteed securities as may be specified by the insurer, the whole or any part of the cash received by him and hold the securities in which the investment is so made as deposit.

Reservation of
deposits.

22. The deposit made by an insurer shall be deemed to be part of the assets of the insurer, but shall not —

- (a) be capable of being transferred or assigned or of being encumbered with any mortgage or other charge by the insurer or be liable to seizure in execution of any decree ; or

- (b) be available for the discharge of any liability of the insurer, except for the discharge in the event of the winding up of the insurer, of liabilities arising out of policies of insurance business issued by the insurer and remaining undischarged.

23. Where the Board is satisfied that an insurer has ceased to carry on any class of insurance business and its liabilities in respect of that class have been satisfied or otherwise provided for, the deposit in respect of that class of insurance business shall be refunded on expiry of two years from the date of issue of the last policy of insurance of that class, issued by the insurer.

Return of deposits.

24. Every insurer who carries on general insurance business, whether solely or in addition to long term insurance business, shall establish and maintain adequate technical reserves :

Maintaining a technical reserve.

Provided that where the Board is of the view that the technical reserve being maintained by the insurer is inadequate to meet its liabilities the Board shall have the power to require such insurer to increase or enhance its technical reserve.

25. (1) Not less than twenty *per centum* of the assets of the technical reserve being maintained for a general insurance business under section 24 and not less than thirty *per centum* of the assets for the Long Term Insurance Fund being maintained under subsection (1) of section 38, shall be in the form of Government Securities. The balance assets shall be in the form of such other investments as shall be determined by the Board.

General provisions relating to Reserve and Fund being maintained by an insurer.

(2) The Board shall have the power, where it considers any investment of any assets in any reserve or Fund referred to in subsection (1) of this section is unsuitable, to issue directions for the disposal of such investment within such time as may be specified in such directions.

(3) Assets of a reserve or Fund being maintained by an insurer under this Act, and all other assets of such insurer shall be kept in Sri Lanka, unless otherwise permitted by the Board on application being made in that behalf by an insurer. Guidelines for the granting of permission by the Board shall be as prescribed.

Solvency margin.

26. (1) Every insurer shall maintain in respect of each class of insurance business, a solvency margin of such amount as may be determined by the Board in respect of that class of insurance business, by rules made in that behalf.

(2) Rules may be made by the Board to provide for the determination of the value of the assets and their admissibility and the amount of the liabilities for the purpose of determining the solvency margin to be maintained in respect of the class of insurance business being carried on by any such insurer.

(3) For purpose of ensuring the avoidance of mismatching of assets as against liabilities by insurers, the Board may, from time to time by rules made in that behalf, lay down criteria to be made applicable in determining the minimum limits of their assets as against their liabilities.

PART III

GENERAL PROVISIONS APPLICABLE TO INSURERS

Separation of
accounts and
assets.

27. Where an insurer carries on business of one or more classes of insurance business, such insurer shall keep separate accounts of all receipts and payments in respect of each class of insurance business and also maintain separate accounts in respect of each sub-class of general insurance business it is carrying on.

Register of
policies and
register of claims.

28. Every insurer shall, in respect of all insurance business transacted by such insurer, keep and maintain —

(a) a register or record of policies, in which shall be

entered in respect of every policy issued by the insurer, the name and address of the policy holder, the date when the policy was effected, and particulars of any transfer, assignment or nomination of which the insurer has notice ; and

- (b) a register or record of claims in which shall be entered every claim presented to the insurer, together with the date of the claim and the name and address of the claimant, the date of settlement of the claim, and where a claim is repudiated the date of repudiation and the grounds therefor.

29. (1) No insurer shall grant to any person who holds the position of a director of such insurer, or to any company in which such a person holds any such position, any loan, other than a loan on a mortgage of a policy of life assurance issued by that insurer, except with the prior approval of the Board which shall grant such approval only if it is satisfied that sufficient security is being given for the repayment of the loan.

Prohibition of loans.

(2) Where a loan has been granted by the insurer to a director of such insurer or to any company in which such person is a director, on the mortgage of a policy of life assurance and such loan is outstanding on the appointed date, the Board shall have the power, notwithstanding anything to the contrary in any agreement or contract, to examine the adequacy of the security given by such person for the repayment of the loan and, if the Board considers it necessary to do so, to require that the loan be repaid or that additional security be given, on or before a specified date. If such person fails to repay the loan, or to give additional security, on or before the specified date, he shall, on the expiry of a period of one year from that date, cease to hold office as a director of such insurer.

30. None of the assets of any insurer shall be kept otherwise than in the name of the insurer.

Assets of insurer to be kept in the name of the insurer.

Reinsurance.

31. (1) An insurer may, subject to such terms and conditions that may be specified by the Board in order to ensure that the interests of policy holders and the insurers are adequately safeguarded, reinsure with any other insurer in or outside Sri Lanka, any liability arising out of any contract or policy of insurance, effected or issued by the first-mentioned insurer.

(2) The Board may by a notice in writing, require any insurer carrying on reinsurance to furnish such information as it may deem necessary to ascertain whether such insurer has the necessary funds to satisfy any claim that may be made on such insurer to comply with the requirements of such notice.

(3) The Board may from time to time, by Notification published in the Gazette, prohibit all insurers, from reinsuring with any specified reinsurer in or outside Sri Lanka, risks upon policies or contracts of insurance issued or effected in respect of insurance business transacted in Sri Lanka, where any such arrangement with that reinsurer is detrimental to the national interest :

Provided however, that before issuing any Notification under this subsection, the Board shall inform the insurer or insurers who is or are carrying on reinsurance business with such specified reinsurer in or outside Sri Lanka, of its intention to issue such Notification, and shall consider any representations made by such insurer or insurers, with reference to its proposed decision.

Staff of insurer
carrying on
insurance
business.

32. (1) Every insurer carrying on insurance business shall employ as a specified officer, at least one person possessing the qualification of Associate of the Chartered Insurance Institute, or an equivalent qualification acceptable to the Board, and having at least five years post qualification experience, at managerial level.

(2) A person employed as a specified officer may also function as the principal officer of the insurer, provided such officer possesses the qualifications of a principal officer as determined by the Board under section 94.

33. No —

Prohibition on holding shares &c. in a brokering company by an insurer.

- (a) insurer or the holding or associate or subsidiary company of an insurer; or
- (b) director, principal officer or specified officer of an insurer or the director or chief executive officer of a holding or associate or subsidiary company of an insurer ;

shall be a shareholder, director or employee of a company registered as a broker under this Act:

Provided that where an insurer or any such person as is referred to in this section is a shareholder, director or employee of any company registered as a broker under this Act as on the date of registration, such insurer or person shall be required to dispose of such shares, or to relinquish such directorships or employment, as the case may be, within such period as may be determined by the Board.

34. No insurer shall accept any insurance business except from —

Persons from whom insurer may accept insurance business.

- (a) any person who has an insurable interest in the subject matter of insurance ;
- (b) another insurer in respect of reinsurance ;
- (c) an insurance agent ; or
- (d) an insurance broker registered under this Act.

Liability of insurer under policies of general insurance.

35. An insurer shall not be liable to pay any amount due under any contract or policy of insurance effected or issued by such insurer in respect of insurance business other than life assurance business, unless —

- (a) the full premia due under such contract or policy on the date on which such amount becomes payable, has been paid ; or
- (b) a bank guarantee for the payment of such premia has been furnished by the insured or broker on the date on which such amount became payable and the insured or broker pays such premia within such period of time as may be determined by the Board.

power of Board to fix rates of tariffs in respect of certain sub-class of insurance.

36. (1) The Board may from time to time, where it is of the view that policy holders are being adversely affected by any tariff limits set by insurers, fix the minimum tariff for motor, fire and employers liability, to be charged by such insurers in respect of policies of insurance to be issued by them, and also may fix the maximum tariff for motor insurance business.

(2) No insurer shall accept as under a contract or policy of insurance effected or issued by it in respect of such sub-class of insurance as is referred to in subsection (1), an amount which is —

- (a) less than the minimum rate that may be fixed in respect of motor, fire and employers liability under subsection (1) ; or
- (b) higher than the maximum rate that may be fixed in respect of motor insurance under subsection (1).

Policy forms.

37. (1) The Board may by notice in writing, require any insurer to furnish to it copies of policy forms issued by such insurer, for purpose of examining whether the interests of policy holders are being adequately safeguarded, and it shall be the duty of such insurer to comply with such notice.

(2) The Board may having regard to the need to ensure that the terms of the contract of insurance covered by such policy form are fair and equitable, direct amendments to any policy form furnished to the Board under subsection (1), and it shall be the duty of the insurer furnishing such forms to give effect to such amendments.

(3) No information acquired under this section by any member of the Board or any officer or servant thereof, shall be disclosed or used by such person, except when required to do so by a court of law, or for the purpose of exercising, performing and discharging the powers, duties and functions of the Board.

PART IV

LONG TERM INSURANCE BUSINESS

38. (1) Every insurer who carries on long term insurance business, whether solely or in addition to general insurance business, shall—

- (a) maintain a separate fund to be called the “Long Term Insurance Fund” and shall credit all money received in respect of the long term insurance business carried on by such insurer, to that Fund ; and
- (b) keep the assets in respect of the long term insurance business separate from the assets in respect of any other class of insurance business.

Duty of insurer carrying on long term insurance business to maintain a separate fund and keep assets relating to such business separate from assets relating to any other business.

(2) The Long Term Insurance Fund maintained by an insurer under subsection (1), shall not be liable for any contracts of the insurer for which it would not have been liable had the business of the insurer been only that of long term insurance business, and shall not be applied directly or indirectly for any purposes other than those of the long term insurance business carried on by that insurer.

(3) For the purpose of verifying whether an insurer complies with the provisions of subsection (1), the Board may—

- (a) call upon such insurer to furnish from time to time a return in such form as may be prescribed ;
- (b) authorize an officer in writing to enter at all reasonable hours the place at which such insurer is carrying on long term insurance business and examine any books, registers or documents of such insurer relating to such business, and such insurer shall furnish such return or permit such officer to enter such place and make such examination.

(4) Where, following an actuarial investigation into the financial affairs of an insurer transacting long term insurance business under subsection (1) of section 48, there is an established surplus in respect of participating policies which the actuary has recommended as being available for distribution, the insurer shall not transfer or otherwise apply assets representing any part of that surplus, unless the insurer has allocated for the payment of bonuses to holders of participating policies at least ninety *per centum* of that surplus.

Assignment or
transfer of long
term insurance
business policies.

39. (1) A transfer or an assignment of a policy of long term insurance business, whether with or without consideration, may be made only by an endorsement upon the policy itself or by a separate instrument signed in either case by the transferor or by the assignor or his duly authorized agent, and attested by at least one witness, and specifically setting forth the fact of transfer or assignment.

(2) No transfer or assignment of a policy of long term insurance business shall be of any effect as against the insurer, unless it is made in accordance with subsection (1), and until a notice in writing of the transfer or assignment, together with the instrument or endorsement or a copy thereof which is certified by or on behalf of the parties to the transfer or assignment to be correct, is served on the insurer at its principal place of business in Sri Lanka.

(3) The date on which the notice referred to in subsection (2) is served on the insurer, shall regulate the priority of all claims under a transfer or an assignment of a policy of long term insurance business as between persons interested in the policy, and where there is more than one instrument of transfer or assignment, the priority of the claims under such instruments shall be governed by the order in which the notices referred to in subsection (2) are served.

(4) Upon the receipt of the notice referred to in subsection (2), the insurer shall record the fact of such transfer or assignment together with the date thereof and the name of the transferee or the assignee, and shall on the request of the person by whom the notice was given, or of the transferee or assignee, grant a written acknowledgment of the receipt of such notice, and any such acknowledgment shall be conclusive evidence against the insurer that such insurer has duly received the notice to which such acknowledgment relates.

(5) Subject to the terms and conditions of the transfer or assignment, the insurer shall, from the date of the receipt of the notice referred to in subsection (2), recognize the transferee or assignee named in the notice as the only person entitled to benefit under the policy, and such person shall be subject to all liabilities and equities to which the transferor or assignor was subject at the date of the transfer or assignment, and may institute any proceedings in relation to the policy without obtaining the consent of the transferor or assignor or making him a party to such proceedings.

(6) Any rights and remedies of an assignee or transferee of a policy of long term insurance business under an assignment or transfer effected prior to the appointed date, shall not be affected by the provisions of this section.

(7) Notwithstanding any law or custom having the force of law to the contrary, an assignment in favour of a person made with the condition that the interest shall pass to some other person on the happening of a specified event during the lifetime of the person whose life is insured, and an assignment in favour of survivor or survivors of a number of persons, shall be valid.

Acquisition of
surrender value by
policy.

40. (1) Where, in terms of a policy of long term insurance business, the policy is to mature upon survival to a fixed date or on the death of such person, and the policy is subject to payment of premia at an uniform rate for a fixed term or where the death occurs before the expiry of such fixed term, until the date of such death, and all premia have been paid for three consecutive years, the policy shall be deemed to acquire a surrender value, and, notwithstanding any contract to the contrary, shall not lapse by reason of non-payment of further premium, but shall, notwithstanding such non-payment, be kept in force to the extent of its paid-up value.

For the purpose of this subsection, the method to be used to calculate surrender values and paid-up values, shall be certified by an actuary.

(2) Where a debt owing to an insurer is secured by a policy of long term insurance business issued by the insurer and, under subsection (1), the policy is kept alive to the extent of its paid-up value, the insurer—

- (a) may treat the debt as a debt secured by the policy so kept alive, and thereupon the policy so kept alive shall be a security for the debt ; or
- (b) may reduce the amount of such paid-up value by an amount the present value of which is equal to the amount of the debt, and thereupon the debt shall cease to be owing to the insurer.

(3) This section shall not apply in any case where —

- (a) the sum assured is payable only on the happening of a contingency which may not arise ;
- (b) the paid-up value of the policy is less than such amount as is determined by the Board from time to time ;
- (c) after default has occurred in the payment of the premium, the parties agree in writing to some other arrangement ; or

- (d) the surrender value of the policy is automatically applied under the terms of the contract for maintaining the policy in force notwithstanding the non-payment of premia.

41. No policy of long term insurance business shall after the expiry of two years from the date of the issue of the policy, be called in question by any insurer on the ground that a statement made in the proposal or other document on the faith of which the policy was issued or reinstated, or in any report of a medical officer or referee, was inaccurate or false, unless the insurer shows that such a statement was made on a material matter or suppressed facts which it was material to disclose, and that it was fraudulently made by the policy holder and that the policy holder knew at the time of making it that the statement was false or that it suppressed facts it was material to disclose :

Policy not to be called in question on the ground of misstatement after two years.

Provided that, nothing in this section shall prevent the insurer from calling for proof of age at any time, if it is entitled to do so under the policy conditions, and no policy shall be deemed to have been called in question merely because the terms of the policy are adjusted on subsequent proof that the age of the life insured was incorrectly stated in the proposal.

42. (1) Where any premium in respect of a policy of long term insurance business is not paid on the date on which it is payable, notice of the options available to the policy holder shall be given to him by the insurer before the expiry of a period of three months from the said date, unless such options are set out in the policy, and no further notice of the options available shall be given thereafter to the policy holder.

Supply of notice of options &c.

(2) Every notice under subsection (1) shall be deemed to have been duly given to the policy holder if it is sent to him to such address as may be specified in the policy or, where the address is not so specified, to the address to which a renewal premium notice or receipt was last sent by the insurer to the policy holder.

(3) Upon application made to an insurer in that behalf, the insurer shall supply to the policy holder or to his legal representative or to an assignee of the policy, a certified copy of the proposal for the policy and of the personal statement made to the medical officer by the proposer, unless copies thereof are attached to the policy.

Power of policy holder to nominate person or persons to whom the money secured by the policy shall be paid.

43. (1) The holder of a policy of long term insurance business may, when effecting the policy or at any time before the policy matures for payment, nominate the person or persons to whom the money secured by the policy shall be paid in the event of his death :

Provided that, where any nominee is a minor, it shall be lawful for the policy holder to appoint in the prescribed manner any person on behalf of the minor, who may receive the money secured by the policy, in the event of his death during the minority of the nominee.

(2) A nomination under subsection (1) shall, unless it is incorporated in the text of the policy itself, be made by an endorsement on the policy and such endorsement shall by notice in writing be communicated to the insurer who shall register such endorsement in the record or register relating to that policy. Any such nomination may at any time before the policy matures for payment be cancelled or changed by another endorsement or by a will of the policy holder, as the case may be, and unless notice in writing of any such cancellation or change has been given by the policy holder to the insurer, the insurer shall not be liable for any payment under the policy made *bona fide* by him to a nominee mentioned in the text of the policy, or registered in records of the insurer.

(3) The insurer shall furnish to the policy holder a written acknowledgment of having registered a nomination or of any cancellation or change thereof.

(4) A transfer or assignment of a policy made in accordance with section 39 shall have the effect of canceling a nomination :

Provided that, the assignment of a policy to an insurer who bears the risk on the policy at the time of the assignment, in consideration of a loan granted by that insurer on the security of the policy within its surrender value, or its reassignment on repayment of the loan, shall not effect a cancellation of a nomination, but shall affect the rights of the nominee only to the extent of the insurer's interest in the policy.

(5) Where the policy matures for payment during the lifetime of the person whose life is assured or where the nominee, or if there are more nominees than one, all the nominees, die before the policy matures for payment, the amount secured by the policy shall be payable to the policy holder or his heirs or legal representatives, as the case may be.

(6) Where the nominee, or if there are more nominees than one, one or more of such nominees survive the person whose life is assured, the amount secured by the policy shall be payable to such survivor or survivors.

44. No insurer who carries on long term insurance business shall, for the purpose of declaring or paying any dividend to shareholders or any bonus to its policy holders, or of making any payment in service of any debentures, loans or advances on account, utilize directly or indirectly any portion of the Long Term Insurance Fund or of the funds of such other class of insurance business, except a surplus shown in the valuation balance sheet submitted to the Board as part of the abstract referred to in section 48 as a result of an actuarial valuation of the assets and liabilities of the insurer ; and such surplus shall not be increased by contributions out of any reserve fund or otherwise, unless such contributions have been brought in as revenue through the revenue account applicable to long term business on or before the date of the valuation aforesaid, except when the reserve fund is made up solely of transfers from similar surpluses disclosed by valuation in respect of which returns have been submitted to the Board under section 49 of this Act.

Restrictions on
dividends and
bonuses.

Declaration of
interim bonus.

45. Notwithstanding anything contained in this Act to the contrary, an insurer shall be at liberty to declare on the recommendation of an actuary made at the last preceding valuation, an interim bonus or bonuses to long term insurance business policy holders, whose policies mature for payment by reason of death or otherwise, during the inter-valuation of period.

Insurer carrying
on long term
insurance business
to appoint an
actuary.

46. Every insurer carrying on long term insurance business shall employ or retain on a permanent basis, an actuary.

PART V

ACCOUNTS, INSPECTION AND INVESTIGATION

Audit of accounts
of an insurer.

47. (1) An insurer shall prepare and maintain its accounts in such form and manner as may be determined by the Board by rules made in that behalf.

(2) Every insurer shall have its annual accounts audited by an auditor selected from and out of a list of approved auditors that shall be issued by the Board, and shall submit a copy of such audited accounts to the Board within such period after the close of the financial year as the Board may determine. The auditor shall state in his report whether the accounting records of the insurer have been maintained in the manner required by the rules made by the Board in that behalf, so as to clearly indicate the true and fair view of the financial position of the insurer.

(3) The Board may on receipt of the auditor's report call upon the auditor to submit —

- (a) information regarding the format and contents of the audited accounts ; and
- (b) any other additional information relating to the audit as the Board may consider necessary.

48. (1) Every insurer shall, in respect of all long term insurance business transacted by the insurer, cause an investigation to be made by an actuary at the end of each financial year into the financial condition of such long term insurance business, including a valuation of its assets and liabilities in respect of that business, and shall cause an abstract to be made in accordance with rules made in that behalf by the Board within such period after the close of the financial year as the Board may determine. The actuary shall certify whether the reserves of the insurer are adequate to meet all liabilities current and contingent of its policy holders and determine the surplus, and shall recommend the quantum of bonus that may be paid to policy holders. The actuary shall also recommend the surplus that is available for transfer to the shareholders of the insurer.

(2) The provisions of subsection (1) regarding the making of an abstract shall apply whenever at any other time, an investigation into the financial condition of the insurer is made with a view to the distribution of surplus, or an investigation is made the results of which are made public.

(3) A copy of an abstract made under subsection (1) shall be submitted to the Board, and the Board shall have power to call for any additional information and documents relating to the actuarial valuation.

(4) there shall be appended to every abstract required by subsection (1) or subsection (2), a certificate signed by the director or principal officer of the insurer, that full and accurate particulars of every policy under which there is a liability either actual or contingent, have been furnished to the actuary for the purposes of the investigation.

(5) There shall be appended to every abstract required by subsection (1) or subsection (2) a statement of the long term insurance business subsisting at the date to which the accounts of the insurer are made up, for the purposes of such abstract.

(6) Where an investigation into the financial condition of an insurer is made at a date other than the last date of the year of account, the accounts for the period elapsing after the end of the preceding year of account, and the balance sheet as at the date at which investigation is made, shall be prepared and audited in the manner provided for in this Act.

Furnishing of
reports.

49. Every insurer shall furnish to the Board —

- (a) a certified copy of the report relating to the business of the insurer submitted to the shareholders of the company, or the policy holders of the insurer, immediately after it is so submitted ; and
- (b) a quarterly return containing such information as may be determined by the Board by rules made in that behalf.

Furnishing copies
of reinsurance
treaties.

50. (1) Every insurer shall from time to time furnish the Board with certified copies of its reinsurance treaties (including treaties which are revised), contracts and arrangements relating to any class of insurance business transacted by such insurer in Sri Lanka :

Provided that certified copies of such reinsurance treaties, contracts and arrangements as are in force on the appointed date, shall be furnished not later than three months after the appointed date.

(2) The Board shall have the power to review all reinsurance treaties, contracts and arrangements furnished to it under subsection (1), for the purpose of determining whether such treaty, contract or arrangement is in any way detrimental, to the interest of the insurer, the insured or to the development of the insurance industry or to the national interest. Where the Board is of the view that the interests of the insurers and the public are not adequately safeguarded, the Board shall have the power to recommend any amendments that it considers necessary for the development of the insurance industry.