

Insurance (Amendment) Bill

Bill No. 19/99.

Read the first time on 6th July 1999.

A BILL

intituled

An Act to amend the Insurance Act (Chapter 142 of the 1994 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Insurance (Amendment) Act 1999
5 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of section 2

2. Section 2 of the Insurance Act is amended by deleting subsection (5) and substituting the following subsection:

“(5) For the purposes of this Act, “Singapore insurer” means a person who is or has been carrying on insurance business in Singapore as an insurer; and references to carrying on insurance business, or any class of insurance business, in Singapore include, but include only, the receipt of proposals for, or issuing of, policies in Singapore or the collection or receipt in Singapore of premiums on insurance policies.”.

New section 5A

3. The Insurance Act is amended by inserting, immediately after section 5, the following section:

“Prohibition relating to solicitation of insurance business and establishment of place of business or representative office

5A.—(1) No person shall solicit any insurance business, other than reinsurance business, for an insurer who is not entitled to carry on that business in Singapore.

(2) No person shall, without the written approval of the Authority, establish —

- (a) a place of business to solicit reinsurance business; or
- (b) a representative office,

for an insurer who is not entitled to carry on insurance business in Singapore.

(3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 2 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day during which the offence continues after conviction.”.

Amendment of section 6

4. Section 6 (1) of the Insurance Act is amended by deleting the words “is carrying on insurance business without having been registered under” in the 2nd and 3rd lines and substituting the words “has contravened any provision of”.

Amendment of section 9

5. Section 9 (2) of the Insurance Act is amended by inserting, immediately after the words “subsection (1)” in the 2nd line, the words “or section 7 (2)”.

Amendment of section 12

6. Section 12 of the Insurance Act is amended by inserting, immediately after subsection (2), the following subsection:

“(3) If the registration of an insurer has been cancelled or has expired, sections 38 and 39 shall, unless the Authority otherwise directs, continue to apply in relation to the insurer in respect of matters that occurred before the cancellation or expiry as if his registration had not been cancelled or had not expired, as the case may be.”.

Amendment of section 13

7. Section 13 of the Insurance Act is amended by deleting subsection (7).

Amendment of section 26

8. Section 26 (3) of the Insurance Act is amended by deleting paragraphs (a) to (d) and substituting the following paragraphs:

“(a) a person shall be regarded as obtaining effective control of a registered insurer by virtue of an agreement if the person alone or acting together with any associate or associates would, if the agreement is carried out —

- (i) acquire or hold, directly or indirectly, 20% or more of the issued share capital of the insurer; or
- (ii) control, directly or indirectly, 20% or more of the voting power of the insurer;

(b) a reference to entering into an agreement to acquire shares includes —

- (i) a reference to a person making or publishing a statement, however expressed, that expressly or impliedly invites a holder of shares to offer to dispose of his shares to that person;

- (ii) a reference to a person obtaining a right to acquire shares under an option, or to have shares transferred to himself or to his order, whether the right is exercisable presently or in the future and whether on the fulfilment of a condition or not;”.

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Amendment of section 28

9. Section 28 of the Insurance Act is amended by deleting subsections (1) and (2) and substituting the following subsections:

“(1) No person shall enter into any agreement to acquire shares of a registered insurer that is incorporated in Singapore by virtue of which he would, if the agreement is carried out, become a substantial shareholder of that insurer without first notifying the Authority of his intention to enter into the agreement and obtaining the approval of the Authority to his entering into the agreement.

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(2) For the purposes of this section —

(a) “substantial shareholder”, in relation to an insurer, means a person who holds 5% or more of the voting power of the insurer;

(b) a reference to entering into an agreement to acquire shares shall be construed in the same way as under section 26; and

(c) “voting power” shall have the same meaning as in section 26.”.

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Amendment of section 31

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10. Section 31 of the Insurance Act is amended by inserting, immediately after the word “loans” in the 3rd line of subsection (1) and in the marginal note, the words “or advances”.

Repeal of sections 33, 34 and 35

11. Sections 33, 34 and 35 of the Insurance Act are repealed.

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Repeal and re-enactment of section 36

12. Section 36 of the Insurance Act is repealed and the following section substituted therefor:

“Carrying on of general business by Lloyd’s underwriters

36.—(1) Section 3 shall not prevent general business being carried on in Singapore by any person if he carries it on as a Lloyd’s underwriter and if the conditions of this section are complied with.

(2) Subsection (1) shall not authorise a Lloyd’s underwriter to carry on insurance business in Singapore unless there are one or more persons resident in Singapore who are authorised to accept service of notices and legal process on behalf of Lloyd’s underwriters, being persons nominated for that purpose by Lloyd’s.

(3) Lloyd’s shall notify the Authority in writing of any nomination referred to in subsection (2) and of any person ceasing to be nominated.

(4) Subsection (1) shall not authorise a Lloyd’s underwriter to carry on insurance business in Singapore unless Lloyd’s makes and maintains with the Authority the deposit as mentioned in the Second Schedule, and that Schedule shall have effect in relation thereto.

(5) Any deposit required by this section may be applied by the Authority in meeting claims against Lloyd’s underwriters in respect of Singapore policies.

(6) In every year there shall be furnished to the Authority on behalf of Lloyd’s, if in the preceding year Lloyd’s underwriters have carried on business as Singapore insurers by virtue of this section —

(a) a certificate, signed by the chairman or other presiding officer of Lloyd’s and by or on behalf of the Minister or other public authority as has the administration of the law relating to insurance in the country in which Lloyd’s is constituted, whether or not those Lloyd’s underwriters have in respect of the preceding year complied with that law so far as applicable to them;

(b) a certified copy of such returns for the preceding year relating to insurance business carried on by those Lloyd’s underwriters as are required by the law referred to in paragraph (a) to be furnished to the Minister or public authority; and

(c) the latest annual list of Lloyd's underwriters and of the governing body of Lloyd's.

(7) For the purposes of this Act —

“Lloyd's” means the society of underwriters known in the United Kingdom as Lloyd's and incorporated under the Lloyd's Act 1871; 5

“Lloyd's underwriter” means an underwriting member of Lloyd's.”.

Amendment of section 42

13. Section 42 of the Insurance Act is amended by deleting subsection (1) and substituting the following subsection: 10

“(1) The Authority may, for the purpose of performing its functions under this Act —

- (a) inspect the books, accounts and other documents of any registered insurer; 15
- (b) institute an investigation into the whole or any part of the business carried on in Singapore by the insurer; and
- (c) enter any premises of the insurer at all reasonable times.”.

Amendment of section 47

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14. Section 47 of the Insurance Act is amended by inserting, immediately after the word “shall” in the 2nd line, the words “, subject to section 16 (12),”.

New section 52A

15. The Insurance Act is amended by inserting, immediately after section 52, the following section: 25

“Immunity from suit of Authority and its employees, etc.

52A. No suit or other legal proceedings shall lie against the Authority or any officer or employee of the Authority or any person acting under the direction of the Authority for any act done in good faith in the performance, or intended performance, of any duty, or in the exercise of any power under this Act or any regulations made thereunder, or for any neglect or default in the performance or exercise in good faith of such duty or power.”. 30

Repeal of section 54

16. Section 54 of the Insurance Act is repealed.

Amendment of section 55

17. Section 55 (2) of the Insurance Act is amended by deleting the
5 words “, insurance brokers and insurance agents”.

Amendment of section 57

18. Section 57 (2) of the Insurance Act is amended by deleting the words “or an insurance agent or broker” in the 4th and 5th lines.

Amendment of section 62

19. Section 62 (1) of the Insurance Act is amended by deleting the
10 words “in the case of a home service policy for 6 years or more, or in the case of an ordinary policy” in the 1st, 2nd and 3rd lines.

Amendment of section 67

20. Section 67 (1) of the Insurance Act is amended by deleting the
15 words “has been” in the definition of “registered insurer” and substituting the words “is for the time being”.

Amendment of First Schedule

21. The First Schedule to the Insurance Act is amended by deleting paragraph 6.

Repeal and re-enactment of Second Schedule

22. The Second Schedule to the Insurance Act is repealed and the following Schedule substituted therefor:

“SECOND SCHEDULE

Section 36 (4)

DEPOSITS BY LLOYD’S

1. In order to comply with section 36 (4) of the Act, Lloyd’s shall make a deposit of a value of \$500,000, or such other amount as may be prescribed, with the Authority.

2. Not later than the end of June in each calendar year, there shall be made
30 such additional deposit, if any, as is necessary to secure that the aggregate value of

SECOND SCHEDULE — *continued*

the deposit is not less than 55% of the premiums received by Lloyd's underwriters in respect of Singapore policies in the preceding calendar year.

3. The Authority shall retain any deposit under this Schedule until it is satisfied that insurance business is not being carried on in Singapore by any Lloyd's underwriter, and it shall then transfer the deposit to Lloyd's except such part (if any) that it determines should be kept available for meeting claims against Lloyd's underwriters in respect of Singapore policies. 5

4. Subsections (2), (3) and (6) of section 13 of the Act shall apply, with any necessary adaptations, in relation to a deposit by Lloyd's under this Schedule as they apply in relation to a deposit by an insurer under that section." 10

EXPLANATORY STATEMENT

This Bill seeks to amend the Insurance Act (Cap. 142) to tighten certain supervisory provisions of the Act and to reflect current practices in the insurance industry in Singapore and to make consequential amendments arising from the Insurance Intermediaries Bill 1999.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 (5) and clause 11 repeals sections 33, 34 and 35 to delete references to insurance agents and brokers as these will be regulated under the Insurance Intermediaries Bill 1999.

Clause 3 inserts a new section 5A to prohibit the solicitation of insurance business, except reinsurance business, for insurers not entitled to carry on that business in Singapore and to prohibit the establishment of a place of business in Singapore to solicit reinsurance business or a representative office for an insurer not entitled to carry on insurance business in Singapore.

Clause 4 extends the powers of examination of documents by the Authority under section 6 (1) to persons whom the Authority has reason to believe have contravened or are contravening any provision of the Act.

Clause 5 amends section 9 (2) to make failure to comply with any condition imposed by the Authority under section 7 (2) an offence.

Clause 6 inserts a new subsection (3) to section 12 to provide for the continued application of sections 38 and 39 to an insurer whose registration has been cancelled or has expired.

Clause 7 deletes subsection (7) of section 13 as it is obsolete.

Clause 8 tightens the provisions of section 26 (relating to the control of take-overs of insurers) to include direct and indirect acquisition, holding or control and acquisition of a right to shares under an option.

Clause 9 simplifies section 28 (relating to the control of substantial shareholding) by adopting the concept of “substantial shareholder” which is defined as a person who holds 5% or more of the voting power of an insurer.

Clause 10 amends section 31 to restrict the granting of unsecured advances by an insurer to its directors or employees.

Clause 12 repeals and re-enacts section 36 and clause 22 replaces the Second Schedule to regulate the carrying on of general insurance business by Lloyd’s underwriters.

Clause 13 amends section 42 (1) to give the Authority an additional power to enter the premises of a registered insurer at all reasonable times for the purposes of the Act.

Clause 14 amends section 47 to clarify that where a registered insurer becomes insolvent, priority of claims would be granted to policyholders on an individual fund basis, that is, the assets of a separate insurance fund established under section 16 would be used firstly to meet the claims of its policyholders, secondly the other creditors of that fund and finally, any balance in that fund would be released to other policyholders and creditors of the insurer.

Clause 15 inserts a new section 52A to confer immunity on the Authority and its officers and employees and persons acting under the direction of the Authority from suit or other legal proceedings for acts done in good faith in the performance of duties under the Act.

Clause 16 repeals section 54 (relating to annual reports) which is no longer required.

Clauses 17 and 18 amend sections 55 (2) and 57 (2), respectively, to delete the references to insurance agents and brokers as these will be regulated under the Insurance Intermediaries Bill 1999.

Clause 19 amends section 62 (1) and clause 21 deletes paragraph 6 of the First Schedule to remove references to home-service policies since these no longer exist in the Singapore insurance market.

Clause 20 clarifies the definition of “registered insurer” in section 67 (1).

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
