

Statutory Instrument 49 of 1989

Insurance Regulations, 1989

SIs. 49/1989, 275/1997, 212B/2000, 178/2004, 59/2005, 206/2006, 132/2007, 35/2008, 136/2008, 115/2009, 183/2009.

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IT is hereby notified that the Minister of Finance, Economic Planning and Development has, in terms of section 89 of the Insurance Act [Chapter 24:07], made the following regulations:—

PRELIMINARY

1. Title These regulations may be cited as the Insurance Regulations, 1989.

2. Interpretation

In these regulations—

“agent” means an insurance agent;

“close relative”, in relation to an individual, means any of the following persons—

- (a) their individual’s grandparent, parent, brother, sister, child or grandchild, whether such relationship arises through blood or adoption;
- (b) the individual’s step-grandparent, step-parent, step-brother, step-sister, step-child or stepgrandchild;
- (c) where the individual is married, his or her spouse or his her spouse’s grandparent, parent, brother, sister, child or grandchild, whether such relationship arises through blood or adoption:

and the expression “closely related” shall be construed accordingly;

[Definition inserted by s.i. 59 of 2005]

“committee” means, as may be appropriate, the Life Insurance Advisory Committee appointed in terms of subsection (1) of section 28;

“firm insurance business” means the business of insuring persons against loss or damage caused by fire or by an occurrence incidental to a fire or against any loss or damage against which insurance is customarily effected in conjunction with the business of insurance against loss or damage caused by fire, but does not include the business of insuring persons against such loss or damage if the business is incidental to some other class of insurance business;

“Form” means the appropriate form specified in the First Schedule;

“funeral insurance business” means the business of assuming obligations of an insurer under funeral policies;

“holder” means a person who holds a licence;

“intermediary” means an employee of a broker or an employee of a multiple agent who introduces insurance business to the broker or multiple agent;

“licence” means a licence issued or renewed in terms of these regulations or a licence deemed to be issued in terms of these regulations, as the case may be;

“loss adjuster or surveyor or risk management consultant” means a person hired or retained by an insurer, or by an insurer and the insured concerned, to determine the extent of the insurer’s liability for any loss before or after any claim under a policy is submitted;

[Definition inserted by s.i. 275 of 1997]

“miscellaneous insurance business” means the business of assuming the obligations under policies not specified in the Act or these regulations;

“motor vehicle insurance business” means the business of insuring persons against loss or damage or the liabilities arising out of, or in connexion with, the use or ownership of motor vehicles but shall not include the insurance of vehicles or liabilities associated therewith which are ancillary to some other class of insurance business;

“multiple agent” means an agent representing more than one registered insurer in either life or non-life insurance business or in both;

“personal accident insurance business” means the business of assuming obligations under personal accident policies;

“sinking fund insurance business” means the business of assuming obligations under sinking-fund policies; “tax clearance certificate”, in relation to an applicant for registration as an insurer, mutual society or insurance broker, or a director of such applicant, means a certificate or other proof in the form of a receipt issued to the applicant or director by or on behalf of the Commissioner-General of the Zimbabwe Revenue Authority certifying or showing that the applicant or director—

- (a) has furnished a return under section 37 of the Income Tax Act[*Chapter 23:06*] for the last year of assessment for which such a return is due; or
- (b) has made arrangements satisfactory to the commissioner-General for the furnishing of such a return;

[Definition inserted by s.i. 59 of 2005]

“transport insurance business” means the business of effecting and carrying out, otherwise than incidentally to some other class of insurance business, policies—

- (a) upon vessels or aircraft or upon machinery, tackle, furniture or equipment of vessels or aircraft; or
- (b) upon goods, merchandise or property of any description whatsoever on board vessels or aircraft; or
- (c) upon the freight of or any other interest in or relating to vessels or aircraft; or
- (d) against damage arising out of or in connexion with the use, ownership, operation, hiring or chartering of vessels or aircraft, including the liabilities associated therewith; or
- (e) against risks incidental to the construction, repair or docking of vessels, including the liabilities associated therewith; or
- (f) against transit risks, whether the transit is by sea, inland water, land or air or partly one and partly another, including risks incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance, but excluding risks, the insurance of which is motor vehicle insurance business; or
- (g) against any other risks, the insurance of which is customarily effected in conjunction with or as incidental to any business referred to in paragraphs (a) to (f) of this definition.

PART II

REGISTRATION REQUIREMENTS OF INSURERS, MUTUAL SOCIETIES AND INSURANCE BROKERS

[Part II (sections 3 – 7A) substituted by s.i. 59 of 2005]

3. *Minimum equity capital of insurers*

For the purposes of section 8(2) of the Act the minimum unencumbered paid up capital of an application for registration as an insurer shall be—

- (a) five hundred thousand United States dollars in the case of an insurer which carries on life assurance business other than for issuing funeral assurance business;
- (b) three hundred thousand United States dollars in the case of an insurer which carries on non-life insurance business;
- (c) eight hundred thousand United States dollars in the case of an insurer which carries on insurance business referred to in both paragraphs (a) and (b);
- (d) four hundred thousand United States dollars in the case of an insurer which carries on reinsurance business;
- (f) four hundred thousand United States dollars in the case of an insurer which carries on life assurance business solely for the purpose of issuing funeral policies.

[Section substituted by s.i. 183 of 2009]

4. *Additional requirements relating to equity capital of insurers and insurance brokers*

An insurer or insurance broker or applicant for registration as an insurer or insurance broker, shall comply with the following additional requirements for registration with respect to its equity capital—

- (a) every insurer or insurance broker must have at least three shareholders;
- (b) no individual or individual and his or her close relatives may own or control, directly or indirectly, more than forty per centum of the voting shares of the insurer, insurance broker or applicant.
- (c) no part of—
 - (i) the minimum paid-up equity capital of the insurer or applicant insurer shall consist of borrowed funds;
 - (ii) the paid-up equity capital of the insurance broker or applicant insurance broker that is used to determine whether he or she qualifies for registration in terms of section 3(2)(iv) or (v) shall consist of borrowed funds.

5. *Registration of insurers, mutual societies and insurance brokers*

(1) An application for registration as an insurer or mutual society made in terms of section 9(1) or 13(1) of the Act shall be in Form 1 or Form 2, as the case may be, and shall be accompanied by—

- (a) a memorandum and articles of association, regulations or other documents constituting the applicant and regulating the conduct of the applicant's business, or, if the applicant seeks registration as a mutual society, the constitution and by-laws of the society, together with a sworn statement that the society has complied with sections 17 and 18 of the Act; and
- (b) in the case of an applicant who is not seeking registration as a mutual society, a statement, certified by the chairperson, a director and the auditors of the applicant, showing the authorised and paid-up capital of the applicant at a date not earlier than thirty days before the date of application; and
- (c) a balance-sheet, profit and loss account and revenue accounts in respect of the applicant's last preceding financial year, if the applicant carried on insurance business before the date of the application; and
- (d) if the applicant is to carry on life insurance business for the purpose of issuing funeral policies, a statement by an actuary on the actuarial soundness of the proposed business; and
- (e) a letter from an executive officer of a bank registered in terms of the Banking Act[Chapter 24:20] with which the applicant intends to operate any current account confirming that the applicant is a customer or has been accepted as a customer of the bank; and
- (f) a declaration by each director and manager that he or she is a fit and proper person to be director or manager of the applicant, that is to say that he or she—
 - (i) has not, within the period of 10 years immediately preceding the date of the application, been convicted of any offence involving theft, fraud or dishonesty; and
 - (ii) has not been prohibited, whether for a period or indefinitely, from carrying on business as an insurer or as a bank, building society or pension fund manager, or from practising as a stockbroker, public accountant, public auditor, legal practitioner or other profession for the practice of which provision is made under any enactment; and
 - (iii) has not, in any application, return or other document required to be furnished to the Commissioner under the Act or to the relevant authority under any enactment governing banks, financial institutions, building societies, pension funds or the Zimbabwe Stock Exchange, furnished the Commissioner or the relevant authority with information that is materially false, inaccurate or misleading; and
 - (iv) is not an unrehabilitated insolvent; and
- (g) a statement disclosing full details of any directorship or managerial post held by a director and manager of the applicant in any other insurer, mutual society, insurance brokerage company or other applicant for registration as such; and
- (h) the curriculum vitae of every person who will become a manager of the proposed insurer or society, containing details of their qualifications or experience in the field of insurance, and their employment history; and
- (i) if the applicant is carrying on life insurance business, an abstract of the report of an actuary on the last investigation into the applicant's financial position in which a valuation of its liabilities was made; and
- (j) a certificate of solvency in Form 5, 6 or 7 as may be appropriate; and
- (k) a business plan of the applicant; and
- (l) a tax clearance certificate issued to the applicant and each director of the applicant; and
- (m) the appropriate registration fee for the class of insurance business in respect of which registration is sought, as specified in Part I of the Third Schedule.

(2) An applicant for registration as an insurance broker made in terms of subsection 35(2) of the Act shall be in Form 3, and shall be accompanied by—

- (a) a memorandum and articles of association, regulations or other documents constituting the applicant and regulating the conduct of the applicant's business; and
- (b) proof satisfactory to the Commissioner of any of the following—
 - (i) an investment in approved securities of not less than one hundred million dollars; and
 - (ii) professional indemnity insurance with a limit of liability of not less than one hundred million dollars; and
 - (iii) a guarantee by a bank or insurer or other third party approved by the Commissioner in the form of an irrevocable undertaking given to the Commissioner that, in the event of the insolvency of the applicant, the guarantor shall pay to the Commissioner on demand a sum of not less than one hundred million dollars for disbursement to the creditors of the applicant; and
 - (iv) in the form of a statement, certified by the chairperson, a director and the auditors of the applicant, showing that—
 - A. the applicant's unencumbered paid-up equity capital is not less than five thousand million dollars; and

B. the applicant has and intends to maintain deposits with a bank or other assets or investments worth not less than one hundred million dollars;

and

- (c) a balance-sheet, profit and loss account and revenue accounts in respect of the applicant's last preceding financial year, if the applicant carried on insurance business before the date of the application; and
- (d) a letter from an executive officer of a bank registered in terms of the Banking Act[Chapter 24:20] confirming that the applicant has opened or has a trust account with the bank referred to in section 7B(1)(a) or that the applicant's application to open such account has been accepted; and
- (e) a declaration by each director that he or she is a fit and proper person to be director of the applicant, that is to say that he or she—
 - (i) has not, within the period of 10 years immediately preceding the date of the application, been convicted of any offences involving theft, fraud or dishonesty; and
 - (ii) has not been prohibited, whether for a period or indefinitely, from carrying on business as an insurance broker or from practising as a stockbroker, public accountant, public auditor, legal practitioner or other profession for the practice of which provision is made under any enactment; and
 - (iii) has not, in any application, return or other document required to be furnished to the Commissioner under the Act, furnished the Commissioner with information that is materially false, inaccurate or misleading; and
 - (iv) is not an unrehabilitated insolvent; and
- (f) a business plan of the applicant;
- (g) a tax clearance certificate issued to the applicant and each director of the applicant; and
- (h) the appropriate registration fee for the class of insurance business in respect of which registration is sought, as specified in Part I of the Third Schedule

(3) The portion of any application fee payable for registration shall be refunded to an applicant if the commissioner rejects the application, unless the Commissioner finds that any information provided in connection with the application is, to the knowledge of the applicant, false in any material particular, or was provided by the applicant without having reasonable grounds for believing it to be true.

5. Insurance Brokers to hold investments in approved securities and maintain professional indemnity cover

Every registered insurance broker—

- (a) shall hold and maintain an unencumbered investment in approved securities of not less than five hundred thousand United States dollars equivalent in Zimbabwe dollars;
- (b) shall effect and maintain a professional indemnity insurance with a limit of liability of not less than—
 - (i) five hundred thousand United States dollars equivalent in Zimbabwe dollars; or
 - (ii) fifty per centum of his or her net brokerage income in his or her last preceding year which ever is the greater.

[Section inserted by s.i 136 of 2008]

5A. Registration of insurers, mutual societies and insurance brokers

(1) An application for registration as an insurer or mutual society made in terms of section 9(1) or 13(1) of the Act shall be in Form 1 or Form 2, as the case may be, and shall be accompanied by—

- (a) memorandum and articles of association, regulation or other documents constituting the applicant and regulating the conduct of the applicant's business if the applicant seeks registration as a mutual society, the constitution and by-laws of the society, together with a sworn statement that the society has complied with sections 17 and 18 of the Act; and
- (b) in the case of an applicant who is not seeking registration as a mutual society a statement, certified by the chairperson a director and the auditors of the applicant, showing the authorised and paid-up capital of the applicant at a date not earlier than thirty days before the date of application; and
- (c) a balance sheet profit and loss accounts in respect of the applicant's last preceding financial year, if the applicant carried on insurance business before the date of the application; and
- (d) if the applicant is to carry on life insurance business a statement by an actuary on the actuarial soundness of the proposed business; and
- (e) a declaration by each director that he or she is a fit and proper person to be director of the applicant that is to say that he or she—
 - (i) has not within the period of 10 years immediately preceding the date of the application been convicted of any offence involving theft, fraud or dishonesty; and
 - (ii) has not been prohibited, whether for a period or indefinitely, from carrying on business as an insurer or as a bank, building society or pension fund manager, or from practising as a stockbroker public accountant public auditor legal practitioner or other profession for the practice of which provision is made under any enactment; and

- (iii) has not, in any application, return or other document required to be furnished to the Commissioner under the Act or to the relevant authority under any enactment governing banks, financial institutions building societies pension funds or the Zimbabwe Stock Exchange, furnished the Commissioner or the relevant authority with information that is materially false, inaccurate or misleading; and
 - (iv) is not an unrehabilitated insolvent; and
 - (f) if the applicant is carrying on life insurance business, an abstract of the report of an actuary on the last investigation into the applicant's financial position in which a valuation of its liabilities was made; and
 - (g) a certificate of solvency in Form 5, 6 or 7 as may be appropriate; and
 - (h) a business plan of the applicant; and
 - (i) a tax clearance certificate issued to the applicant and each director of the applicant; and
 - (j) the appropriate registration fee for the class of insurance business in respect of which registration is sought, as specified in Part I of the Third Schedule.
- (2) An application for registration as an insurance broker made in terms of subsection 36(2) of the Act shall be in Form 3 and shall be accompanied by—
- (a) a memorandum and articles of association, regulations or other documents constituting the applicant and regulating the conduct of the applicant's business; and
 - (b) proof satisfactory to the Commissioner of any of the following—
 - (i) an investment in approved securities of not less than one hundred thousand United States dollars; or
 - (ii) professional indemnity insurance with a limit of liability of not less than one hundred thousand United States dollars; or
 - (iii) a guarantee by a bank or insurer or other third party approved by the Commissioner in the form of an irrevocable undertaking given to the Commissioner that, in the event of the insolvency of the applicant, the guarantor shall pay to the Commissioner on demand a sum of not less than one hundred thousand United States dollars for disbursement to the creditors of the applicant; or
 - (iv) any combination of the foregoing investments, insurance, guarantee or paid-up equity capital the values of which, when added together, equal a sum of not less than two hundred thousand United States dollars;
- and
- (c) a balance sheet profit and loss account and revenue accounts in respect of the applicant's last preceding financial year, if the applicant carried on insurance business before the date of the application; and
 - (d) a declaration by each director that he or she is a fit and proper person to be director of the applicant, that is to say that he or she—
 - (i) has not, within the period of 10 years immediately preceding the date of the application, been convicted of any offence involving theft, fraud or dishonesty;
 - (ii) has not been prohibited, whether for a period or indefinitely, from carrying on business as an insurance broker or from practising as a stockbroker, public accountant, public auditor, legal practitioner or other profession for the practice of which provision is made under any enactment; and
 - (iii) has not, in any application, return or other document required to be furnished the Commissioner with information that is materially false; inaccurate or misleading; and
 - (iv) is not an unrehabilitated insolvent; and
 - (e) a business plan of the applicant;
 - (f) a tax clearance certificate issued to the applicant and each director of the applicant; and
 - (g) the appropriate registration fee for the class of insurance business in respect of which registration is sought, as specified in Part I of the Third Schedule;
- (3) The portion of any application fee payable for registration shall be refunded to an applicant if the Commissioner rejects the application, unless the Commissioner finds that any information provided in connection with the application is, to the knowledge of the applicant, false in any material particular, or was provided by the applicant without having reasonable grounds for believing it to be true.

[Section inserted by s.i 183 of 2009]

6. Business plan of applicant

The business plan of an applicant insurer, mutual society or insurance broker referred to in section 5(1)(h) and (2)(e) shall include, or be accompanied by, the following projections based on normal assumptions and the most and least favourable assumptions—

- (a) a projected and annual balance sheet for the first three years of operation after registration;
- (b) a projected annual income and expenditure account for the first three years of operation after registration.
- (c) a projected cash flow statement for the first three years of operation after registration.

7. Issue of certificate of registration and notification of changes

- (1) A certificate of registration as an insurer, mutual society or insurance broker and shall be in Form 4.
- (2) A registered insurer shall, in terms of section 27(1) of the Act, notify the Commissioner of any change in the directors, memorandum and articles, constitution, by-laws or regulations of the insurer or in any other document constituting the insurer or regulating the conduct of its business.

7A. Commissioner may give directions

- (1) The Commissioner may, in compliance with section 5 of the Act, if he or she has reason to believe that any person is carrying on any insurance business or is in any way representing to members of the public that he or she is carrying on any business which is similar to insurance business, direct such person to comply with such provisions of the Act as the Commissioner may specify.
- (2) The Commissioner shall, by notice in the *Gazette*, publish any direction made in terms of subsection (1).

PART IIA

GOOD PRACTICE AND CORPORATE GOVERNANCE REQUIREMENTS

7B. Insurance brokers to keep trust accounts

- (1) An insurance broker shall—
 - (a) open and keep a separate trust account at a bank registered in terms of the Banking Act[Chapter 24:20] in which he or she shall, within six days of receiving them, deposit all premiums and other moneys required to be passed on to any insurer with whom he or she has negotiated any insurance business:

Provided that, in addition to any trust account referred to in this paragraph, an insurance broker may open and keep a trust account bearing interest at a bank or building society or with an institution approved by the Commissioner for the purposes of this proviso in which he or she may, unless otherwise instructed by the person for whom or on whose account the money is held, deposit any such moneys as are not immediately required for any purpose; and
 - (b) keep proper books of account containing particulars and information as to moneys received, held or paid by him or her for or on account of any insurer referred to in paragraph (a) and as to any interest earned by moneys in an account referred to in the proviso to paragraph (a) which are payable to any such person.
- (2) An insurance broker shall, at least once in every year, cause his or her trust account and books of that account kept in terms of subsection (1) to be examined by an auditor who is registered in terms of the Public Accountants and Auditors Act [Chapter 27:12] and shall on demand by the Commissioner submit to the Commissioner a report from such auditor in the relating to his or her trust account.
- (3) No amount standing to the credit of a trust account kept by an insurance broker in terms of subsection (1) shall form part of the assets of that insurance broker.
- (4) A bank at which an insurance broker keeps a trust account in terms of subsection (1) shall not, by reason only of the name or style by which the account is distinguished, be deemed to have knowledge that that insurance broker is not entitled absolutely to all moneys paid or credited to the said account;

Provided that nothing in this section contained shall relieve a bank from any liability or obligation under which it would be apart from this section.
- (5) Any insurance broker who fails, by the 1st October, 2005, or within twenty-one days after commencing business, whichever is the later date, to open and keep a trust account as required by this section, shall be liable to pay a penalty of one hundred thousand dollars to the Commissioner for each month or part of a month during which he or she carried on the business of an insurance broker without such an account.

[Section inserted by s.i. 59 of 2005]

7C. Board of directors of insurers mutual societies and insurance brokers

- (1) The board of directors of every insurer, mutual society or insurance broker (other than a private insurance brokerage company) shall have at least three directors.
- (2) The chairperson of the board of directors of an insurer, mutual society or insurance broker (other than a private insurance brokerage company) shall not be a manager or hold any executive position in the insurer, mutual society or insurance broker.
- (3) Directors shall not be closely related to each other except in the case of a private insurance brokerage company or in any other case where the Commissioner, on good cause shown, gives written permission in advance of the closely related director being appointed.
- (4) Every insurer, mutual society or insurance broker shall endeavour to secure on its board of directors a balanced representation of skills and experience in insurance, finance, law and accounting.

7D. Operational procedures of insurers, mutual societies and insurance brokers

- (1) Every insurer, mutual society or insurance broker (other than a private insurance brokerage company) shall devise and keep up to date written operational procedures stipulating, among other matters—

- (a) who is responsible for operating the accounts held by the insurer, society or broker with any bank or other financial institution, and in particular who is authorised to originate any cheque requisition; and
- (b) the policies and procedures with respect to the settlement of claims, the investment of surplus funds and the spread of risk of the insurer, society or broker.

(2) No director, manager or employee of an insurer, mutual society or insurance broker (other than a private insurance brokerage company) shall authorise any other director, manager or employee of the insurer, society or broker who is closely related to him or her to originate any cheque requisition on the funds of the insurer, society or broker.

(3) An insurer, mutual society or insurance broker (other than a private insurance brokerage company) which fails, by the 1st October, 2005, or within twenty-one days after commencing business, whichever is the later date, to devise and implement the written operational procedures required by this section, shall be liable to pay a penalty of one hundred thousand dollars to the Commissioner for each month or part of a month during which he or she carried on the business of an insurance broker without such account.

PART II

SUBMISSION OF ANNUAL RETURNS AND OTHER MATTERS

8. Documents to be furnished in terms of section 30 (1) of Act

The documents referred to in the paragraphs of subsection (1) of section 20 of the Act listed in the first column of the following table which a registered insurer is required to prepare and furnish to the Commissioner in terms of that subsection shall be in the forms specified opposite thereto in the second column of the table—

<i>Paragraph</i>	<i>Form</i>
(a)	5, 6 or 7 as may be appropriate
(b)	8
(c)	9
(d)	10
(e)	11
(f)	12.

9. Annual return to be submitted by broker in terms of section 37 of Act

(1) The annual returns which an insurance broker is required to submit to the Commissioner in terms of section 37 of the Act shall be in Forms 13 and 14.

(2) The returns submitted in terms of subsection (1) shall be in duplicate and shall be accompanied by an audited balance-sheet of the insurance broker.

10. Abstract of report of actuary and valuation of liabilities referred to in section 39 (2) and (3) of Act

(1) The abstract of the report of any actuary referred to in subsections (2) and (3) of section 39 of the Act, which a life insurer is required to prepare and furnish to the Commissioner in terms of those subsections shall be in Form 15 and the summary and valuation of liabilities included in that abstract shall be in form 16.

(2) The statement of insurance business referred to in subsections (2) and (3) of section 39 of the Act, which a life insurer is required to prepare and furnish to the commissioner in terms of those subsections shall be in Form 17.

11. Percentage of assets to be held in approved securities

An insurer carrying on—

- (a) life insurance business shall hold thirty per centum of his total assets; and
- (b) non-life insurance business shall hold twenty-five per centum of his total assets; in such securities as the Minister may direct.

[Section amended by s.i. 178 of 2004]

11A. Prescribed securities

Bonds issued by the Reserve Bank of Zimbabwe on behalf of the National Fuel Investments Company of Zimbabwe (Private) Limited are prescribed for the purposes of the definition of “prescribed securities” in section 3 of the Act.

[Subsection amended by s.i. 212B of 2000]

12. Lost or destroyed life policies

(1) The loss or destruction of a policy referred to in subsection (1) of section 54 of the Act shall be—

- (a) provide on the production to the insurer of a declaration giving the circumstances of the loss or destruction sworn by the policy-owner before a justice of the peace or commissioner of oaths or such like authority and on the production to the insurer of such additional proof of loss or destruction as he may reasonably call for;

(b) advertised once in the Gazette and twice, at an interval of not less than three weeks, in a newspaper, or, if the insurer desires, in each of four newspapers nominated by the insurer and circulating in Zimbabwe.

(2) The insurer shall not issue a correct and certified copy of the policy until a period of three weeks, commencing on the date on which the last advertisement referred to in paragraph (b) of subsection (1) appeared, has expired.

(3) The fee payable by the owner to the insurer for the issue of a correct and certified copy of the policy shall be such sum, not exceeding five thousand dollars, as the insurer may fix, together with the costs incurred by the insurer—

- (a) in proving the loss or destruction of the policy; and
- (b) advertising the loss or destruction of the policy; and
- (c) in respect of any stamp-duty payable on the copy of the policy.

[Subsection amended by s.i. 59 of 2005]

13. Fees payable in terms of section 77 (1) and (2) of Act

The fees payable in terms of subsections (1) and (2) of section 77 of the Act shall be—

- (a) for the inspection of any document, five thousand dollars;
- (b) for the inspection and copying of any document, ten thousand dollars;
- (c) for a certified copy of or abstract from any document, five thousand dollars for every hundred words or part thereof.

[Section amended by s.i. 59 of 2005]

PART III

LICENSING OF AGENTS, MULTIPLE AGENTS AND INTERMEDIARIES

14. Licence issued by Commissioner

The following licences may be issued by the Commissioner— (a)

- insurance agent (general) licence which shall be in Form 23;
- (b) insurance agent (life) licence which shall be in Form 24;
- (c) insurance agent (life) (temporary) licence which shall be in Form 25;
- (d) intermediary's licence which shall be in Form 26;
- (e) multiple insurance agent (general) licence which shall be in form 27.
- (f) a loss adjuster or surveyor or risk management consultant's licence which shall be in Form 28.

[Paragraph inserted by s.i. 275 of 1997]

(2) The licences specified in paragraphs (b), (c) and (d) of subsection (1) shall be issued only to an individual.

15. Persons required to hold licences

(1) Every agent who represents a registered insurer in respect of insurance business other than life insurance business shall hold a valid insurance agent (general) licence.

(2) Every agent who represents a registered insurer in respect of life insurance business shall hold a valid insurance agent (life) licence or a valid insurance agent (life) (temporary) licence.

(3) Every intermediary employed by a broker or a multiple agent for purposes of procuring insurance business on behalf of such broker or multiple agent, shall hold a valid intermediary's licence in respect of the class of insurance business for which the intermediary represents the broker or multiple agent.

(4) Every multiple insurance agent who represents any registered insurer in respect of any insurance business shall hold a valid multiple insurance agent (general) licence.

(4a) Every loss adjuster or surveyor or risk management consultant who represents any registered insurer in respect of any insurance business shall hold a valid loss adjuster or surveyor or risk management consultant's licence.

[Paragraph inserted by s.i. 275 of 1997]

(5) No registered insurer, broker or multiple insurance agent shall cause or permit any agent, intermediary, loss adjuster or surveyor or risk management consultant, as the case may be, to represent him in respect of any insurance business unless that agent, intermediary, loss adjuster or surveyor or risk management consultant is in possession of a licence in respect of the class of insurance business for which the agent, intermediary, loss adjuster or surveyor or risk management consultant represents the insurer, broker, or multiple insurance agent.

[Paragraph substituted by s.i. 275 of 1997]

16. Security required for discharge of professional function by multiple agents

(1) Every multiple agent shall—

- (a) obtain and maintain a professional indemnity insurance cover for not less than seventy-five thousand United States dollars or equivalent in Zimbabwe dollars; or

- (b) hold an investment in approved securities of not less than seventy-five thousand United States dollars or equivalent in Zimbabwe dollars, which securities shall be lodged with the Commissioner but any interest due on the investment shall accrue to the multiple agent; or
- (c) obtain a guarantee by a bank or insurer or other third party approved by the commissioner in the form of an irrevocable undertaking given to the commissioner that, in the event of the insolvency of the multiple agent, the guarantor shall pay to the commissioner on demand a sum of not less than seventy-five thousand United States dollars or equivalent in Zimbabwe dollars for disbursement to the creditors of the multiple agent; or
- (d) maintain deposits with a bank or other assets or investments worth not less than seventy-five thousand United States dollars or equivalent in Zimbabwe dollars; or
- (e) obtain, maintain or hold any combination of the foregoing investments, insurance, guarantee, deposits or assets the values of which, when added together, equal a sum of not less than seventy-five thousand United States dollars or equivalent in Zimbabwe dollars;
- (f) have a paid up capital of two thousand five hundred million dollars.

[Paragraph (f) inserted by s.i 167 of 2006]

[Section substituted by s.i. 59 of 2005 and amended by s.i 136 of 2008 and 183 of 2009]

17. Validity and production of licences

(1) Subject to sections 20 and 23, a licence, other than a n insurance agent (life) (temporary) licence, shall be valid for two years calculated from the 1st January, 2005, and expire at the end of the two-year period in which it is granted, but shall, on application, be renewed for a further two-year period, and so on from time to time.

[Subsection substituted by s.i. 59 of 2005]

(2) Every registered insurer shall submit to the Commissioner by the 31st march of each year a schedule of agents representing him as at 31st December of the preceding year.

(3) An insurance agent (life) (temporary) licence shall be valid for a period of six months from the date of issue thereof and shall be capable of renewal once only.

(4) An agent shall produce his licence upon demand to any member of the police with whom he intends to negotiate insurance business.

18. Application for issue or renewal of licences

(1) An application for the issue or renewal of an insurance agent (general) licence shall be made to the Commissioner on Form 18, and shall bear the signature of the principal officer of the relevant registered insurer on the certificate thereon, dated not more than fourteen days prior to the date of the application, and, in the case of a renewal, shall be accompanied by the licence to be renewed.

(2) An application for the issue or renewal of an insurance agent (life) licence shall be made to the Commissioner on Form 19 and shall bear the signature of the principal officer of the relevant registered insurer on the certificate thereon, dated not more than fourteen days prior to the date of the application, and , in the case of a renewal, shall be accompanied by the licence to be renewed.

(3) An application for the issue of an insurance agent (life) (temporary) licence shall be in Form 20 and shall bear the signature of the principal officer of the relevant registered insurer on the certificate thereon, dated not more than fourteen days prior to the date of the application.

(4) An application for the issue or renewal of an intermediary's licence shall be made to the Commissioner in Form 21 and shall bear the signature of the multiple agent or the principal officer of the registered broker dated not more than fourteen days prior to the date of the application and, in the case of a renewal, shall be accompanied by the licence to be renewed.

(5) An application for the issue or renewal of a multiple insurance agent (general) licence shall be made to the Commissioner in Form 22 and dated not more than fourteen days prior to the date of the application and shall be accompanied by—

- (a) proof of the ability to obtain the professional indemnity insurance cover referred to in paragraph (a) of section 16, certified copies of which shall be lodged with the commissioner within twenty-one days of the issue of the licence;
- (b) evidence of the investment referred to in paragraph (b) of section 16; and (c) in the case of a renewal, the licence to be renewed.

(6) An application for the issue or renewal of a loss adjuster or surveyor or risk management consultant's licence shall be made to the Commissioner in Form 22A and dated not more than fourteen days prior to the date of the application and shall be accompanied by—

- (a) the memorandum and articles of association of the applicant if the application relates to a company; and
- (b) a declaration by the applicant or, in the case where the applicant is a company, each director of the applicant, that he is not an unrehabilitated insolvent;
- (c) if the applicant is carrying on business as a loss adjuster or surveyor or risk management consultant at the time of the application a balance sheet, profit and loss account and revenue accounts in respect of the applicant's last preceding financial year.

(7) An application for a licence shall be accompanied by the appropriate fee specified in Part II of the Third Schedule.

[Subsection substituted by s.i. 50 of 2005]

19. Issue of or refusal to issue licence

(1) Subject to the provisions of section 20, on receipt of an application in terms of section 18, the Commissioner shall—

- (a) if he has reason to believe that the applicant is not a fit and proper person to hold a licence, give the applicant notice, in writing, of the grounds for such belief, and invite the applicant to make representations, in writing, in that regard before a date to be specified by the Commissioner;
- (b) in any other case, issue the appropriate licence or renew the licence, as the case may be, in terms of the application.

(2) The Commissioner shall consider any representations made in terms of paragraph (a) of subsection (1), and shall—

- (a) if he considers that the applicant is not a fit and proper person to hold a licence—
 - (i) refuse the application, and may, in addition, debar the applicant from obtaining a licence in respect of such class of insurance business for such period, not exceeding three years, as may be specified by the Commissioner;
 - (ii) advise the applicant accordingly of his reasons thereof;
- (b) in any other case, issue the appropriate licence or renew the licence, as the case may be, in terms of the application.

20. Debarred person not to be issued with a licence

No licence in respect of a class of insurance business shall be issued to, or renewed in respect of, any person who has been debarred from obtaining a licence in respect of that class of business in terms of subparagraph (i) of paragraph (a) of subsection (2) of section 19 or subparagraph (i) of paragraph (a) of subsection (2) of section 23.

21. Notification of changes

(1) If, during the period of validity of a licence, the holder of the licence—

- (a) ceases to represent the registered insurer or insurance broker named in the licence; or
- (b) changes the name or address under which he conducts his business; the holder shall, within seven days thereafter, notify the Commissioner accordingly through the insurer or insurance broker and return such licence to the commissioner for cancellation or endorsement, as the case may be.

[Subsection substituted by s.i. 275 of 1997]

(2) Any holder of a licence who fails to comply with subsection (1) shall be liable to pay a penalty of five thousand dollars for each day during which he is in default.

[Subsection amended by s.i.59 of 2005]

22. Return of licence on resignation, death, retirement or termination of services

(1) A registered insurer or insurance broker shall notify the Commissioner within fourteen days of the date on which he becomes aware of the fact that an agent has ceased to represent him, and shall state if such representation has ceased by—

- (a) resignation; or
- (b) death or retirement; or
- (c) termination of the services of the agent by the registered insurer or insurance broker and the reasons thereof.

(2) The notification referred to in subsection (1) shall be accompanied by the licence.

(3) Any insurance agent who is aggrieved by a decision to terminate his services may, in writing, make representations to the commissioner and subsections (2) and (3) of section 23 shall apply, mutatis mutandis.

23. Cancellation of licence

(1) The Commissioner shall, if he has reason to believe that a holder is no longer a fit and proper person to hold a licence, give such holder notice, in writing, of the grounds for such belief and of his intention to cancel and debar him from obtaining a licence, and shall invite him to make representations, in writing, in that regard before a date to be specified by the commissioner.

(2) The Commissioner shall consider any representations made in terms of subsection (1), and shall—(a) if he considers that the holder is no longer a fit and proper person to hold a licence—

- (i) cancel the licence, and shall debar the holder from obtaining a licence in respect of such class of insurance business for such period, not exceeding three years, as may be specified by the commissioner; and
- (ii) advise the holder accordingly of his reasons therefor;

(b) in any other case, advise the holder that he proposes—

- (i) to impose specified conditions regarding that holder's conduct of business; or (ii) to take no further action in the matter.

(3) A holder who is notified that the Commissioner has cancelled his licence in terms of paragraph (a) of subsection (2) shall comply with any directions issued by the Commissioner in respect of the surrender of such licence.

24. Appeal against decision of Commissioner

(1) Any person who is aggrieved by a decision of the Commissioner made in terms of section 19 or section 23 may, within fourteen days, appeal, in writing, to the Minister against such decision:

Provided that the noting of an appeal in terms of subsection (1) against the cancellation of a licence shall not have the effect of continuing the validity of the licence pending the determination of the appeal unless the Minister, by notice in writing, otherwise directs.

(2) On receipt of an appeal lodged in terms of subsection (1), the Minister shall, after considering the appeal and any additional written evidence or representations which he may deem necessary or require—

- (a) confirm or vary the decision of the Commissioner; or
- (b) give such other decision as, in his opinion, the Commissioner ought to have given; and

the decision of the Minister shall be deemed to be a decision of the Commissioner.

(3) The Commissioner shall notify the applicant or the holder, as the case may be, and the registered insurer or insurance broker concerned of the Minister's decision in terms of subsection (2).

(4) The decision of the Minister shall be final, and he shall not be required to give his reasons therefore.

(5) A person to whom notice of the decision of the Minister has been given in terms of subsection (3) shall comply with such directions as may be given to him by the Commissioner relating to the return of the licence concerned for endorsement or cancellation, as the case may be.

25. Commissioner to maintain register of licences

(1) The Commissioner shall keep and maintain in his office a register, in which shall be entered the particulars of the licences issued, renewed, cancelled or surrendered in terms of these regulations.

(2) The register referred to in subsection (1) shall be open for inspection during the normal business hours of the office of the Commissioner, on payment of a fee of five thousand dollars:

[Subsection amended by s.i. 59 of 2005]

Provided that the Commissioner may waive the fee in respect of an agent, registered insurer or insurance broker.

(3) In the event of the loss or destruction of a licence, the Commissioner may, upon written application and the payment of a fee of twenty thousand dollars, issue a certified copy of such licence.

[Subsection amended by s.i. 59 of 2005]

(4) A fee of ten thousand dollars shall be payable for any change of name or other endorsement on the licence.

[Subsection amended by s.i. 59 of 2005]

26. Penalties for failure to take out or renew licence

(1) Any agent who fails to take out or renew a licence required by these regulations within one month of the date from which he is required to hold or renew the licence shall be liable to pay a penalty of ten thousand dollars to the commissioner for each month or part of a month during which he carried on the business of an insurance agent without the prescribed licence.

[Subsection amended by s.i. 59 of 2005]

(2) Any registered insurer who is represented by an agent, who has failed to take out or renew a licence required by these regulations shall be liable to pay a penalty of ten thousand dollars to the commissioner in respect of each such agent, and, additionally, shall be liable to pay to the commissioner a sum of ten thousand dollars for each month or part of a month during which the default continues.

[Subsection amended by s.i. 59 of 2005]

(3)- (5) ...

[Subsections repealed by s.i. 59 of 2005]

26A. Recovery and remission of penalties

(1) A penalty imposed in terms of section 7B, 7D, 25 or 26 shall constitute a debt due to the State by the person liable to pay it, and may be recovered by action in a court of competent jurisdiction by proceedings in the name of the Commissioner.

(2) The Commissioner may waive the payment or refund the whole or any part of any penalty referred to in subsection (1) if he or she is satisfied that the failure of the person to comply with any provision of section 25 or 26 that rendered such person liable to pay the penalty was not due to an intent to evade those provisions or the lack of reasonable care.

(3) The payment by any person of any penalty referred to in subsection (1) shall not relive such person of any criminal liability incurred through his or her failure to return or take out a licence or through being represented by

an agent who does not hold a licence, nor shall the fact of any criminal liability having been imposed upon him or her relieve him or her from any obligation to pay any penalty referred to in subsection (1).

[Subsection inserted by s.i. 59 of 2005]

27. Offences

Any person who—

- (a) contravenes sections 15, 21, 22 subsection (3) of section 23 or subsection (5) of section 24; or
- (b) in, or in connection with, any application in terms of these regulations, submits any written information which he knows to be false or does not reasonably believe to be true, or any false document; or (c) forges any licence; or
- (d) alters or erases any part of a licence or any entry lawfully made thereon; or
- (e) makes any unauthorised entry on a licence; or
- (f) represents himself to be the holder of a licence of which he is not the holder; or
- (g) for any purpose whatsoever, makes use of the licence held by another person; or
- (h) being the holder of a licence, hires, cedes, lends, transfers or in any manner whatsoever makes over his licence to any other person or allows his licence to be used by any other person;

shall be guilty of an offence.

PART IV

ADVISORY COMMITTEES

28. Appointment of committees

(1) The Minister may, by notice in the Gazette, appoint committees to be known as the Life Insurance Advisory Committee and the Non-Life Insurance Advisory committee, respectively, to perform the functions imposed upon them by the regulations.

(2) Each Committee shall consist of not less than eight members, who shall hold office at the pleasure of the Minister.

(3) Each Committee shall consist of—

- (a) in the case of the Life Insurance Advisory Committee—
 - (i) two members nominated by the Life Officers Association of Zimbabwe; and
 - (ii) one member nominated by the Zimbabwe Insurance Brokers Association; and
 - (iii) two members nominated by the Life Underwriters Association of Zimbabwe; and
 - (iv) one member nominated by the Professional Reinsurers Association; and
 - (v) two members nominated by the Commissioner, one of whom shall be from his office;
- (b) in the case of the Non-Life Insurance Advisory committee—
 - (i) two members nominated by the Insurance Council of Zimbabwe; and
 - (ii) one member nominated by the Zimbabwe Insurance Brokers Association;
 - (iii) two members nominated by a body representing non-life agents;
 - (iv) two members nominated by the Commissioner, one of whom shall be from his office.

(4) An alternate member to a member of the Committee may be appointed by the body or association which nominated that member.

(5) An alternate member appointed in terms of subsection (4) may act as a member only when the member to whom he is alternate is unable to perform his duties as a member.

29. Functions of committees

The functions of the committees shall be to advise the Commissioner on matters relating to life and non-life insurance which may be referred to the committees by the commissioner.

30. Procedure of committees

(1) Each committee shall designate one of its members as chairman and one of its members as vice-chairman, for a period to be determined by the committee.

(2) Meetings of a committee may be called at the instance of the chairman.

(3) Not less than seven days' notice shall be given of any meeting of the committee:

Provided that, in the case of urgency, the chairman may direct that a meeting be called without such notice being given.

(4) If the chairman is prevented, for any reason, from exercising his functions in terms of these regulations, the vice-chairman shall exercise the functions and powers and perform the duties of the chairman.

(5) If, at meeting of a committee, the chairman and vice-chairman are absent, the members present may elect one of their members to preside.

(6) The quorum of a committee shall be five members.

(7) A resolution passed by a majority of the members present at a meeting of the committee shall be the resolution of the committee:

Provided that, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(8) The resolution of the committee shall form part of the minutes to be submitted, signed by the chairman, to the Commissioner.

31. *Travelling and subsistence allowances*

The members of the committee shall be paid such reasonable travelling and subsistence allowances as may be approved by the Minister.

PART V

REPEALS

32. *Repealed regulations and savings*

- (1) The regulations specified in the Second Schedule are repealed.
- (2) A valid current licence issued in terms of the Insurance (Agents) Regulations, 1976, shall remain valid until the issue of a new licence in terms of these regulations.

THIRD SCHEDULE (Sections 3 and 18)

[Schedule substituted by s.i. 115 of 2009]

FEES

PART I

<i>Type of registration or licence</i>	<i>Fee \$</i>
(a) Registration as an insurer carrying on reinsurance business—	
i) Application	fee
.....	50,00
.....	ii) Registration fee
.....	100,00
(b) i) Registration of an insurer carrying on life insurance business—	
Application fee	50,00
Registration fee	100,00
(c) Registration of an insurer carrying on insurance business other than life insurance business—	
i) Application	fee
.....	50,00
.....	ii) Registration fee
.....	100,00
(d) Registration of an insurer carrying on life and other insurance business—	
i) Application	fee
.....	50,00
.....	ii) Registration fee
.....	100,00
(e) Registration of an insurer carrying on insurance business solely for the purpose of issuing funeral policies—	
i) Application	fee
.....	50,00
.....	ii) Registration fee
.....	100,00
(f) Registration of a mutual society—	
i) Application	fee
.....	50,00
.....	ii) Registration fee
.....	100,00
(g) Registration of an insurance broker—	

i) Application	fee
.....50,00	ii) Registration fee
.....100,00	

PART II

<i>Type of registration or licence</i>	<i>Fee \$</i>
a) Insurance agent (general) licence	20,00
b) Insurance agent (life) licence	20,00
c) Insurance agent (temporary) licence	10,00
d) Intermediary’s licence	20,00
e) Insurance agent (Corporates)	40,00
f) Multiple insurance agent (general) licence—	
(i) Application fee	50,00
	(ii) Registration fee
100,00
g) Loss adjuster or surveyor or risk management consultant—	
Application fee	50,00
Registration fee	50,00

ANNUAL FEES

Insurer	300,00
Broker	200,00
Multiple agent	100,00
Loss assessor	75,00
Agency (Individuals)	10,00
Agency (Corporates)	20,00

LOST CERTIFICATE

Replacement or issuance of additional certificate of registration for registered entity/agent	15,00
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