



**Isle of Man**

*Ellan Vannin*

**AT 6 of 2017**

**INSURANCE (AMENDMENT) ACT 2017**





## INSURANCE (AMENDMENT) ACT 2017

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**Isle of Man***Ellan Vannin*

## INSURANCE (AMENDMENT) ACT 2017

*Signed in Tynwald:* 18 July 2017  
*Received Royal Assent:* 18 July 2017  
*Announced to Tynwald:* 18 July 2017

**AN ACT** to amend the *Insurance Act 2008*; and for connected purposes.

**BE IT ENACTED** by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows: —

### PART 1 — INTRODUCTORY

#### 1 Short title

The short title of this Act is the Insurance (Amendment) Act 2017.

#### 2 Commencement

- (1) This Act, except section 1, section 3 and this section, comes into operation on such day or days as the Isle of Man Financial Services Authority (the “**Authority**”) may by order appoint and different days may be appointed for different provisions and different purposes.<sup>1</sup>
- (2) An order under subsection (1) may include such supplemental, incidental, consequential and transitional provisions as appear to the Authority to be necessary or expedient.

#### 3 Expiry

- (1) This Act (other than section 55 and Schedule 1) expires —
  - (a) on the day after its promulgation, if all of its provisions are in operation on its promulgation; or<sup>2</sup>
  - (b) otherwise, on the day after the last provision is brought into operation.
- (2) The expiry does not —

- (a) affect the continuing operation of the amendments made by this Act; or
- (b) revive any provision not in operation when the amendments took effect.

#### 4 Interpretation

In this Act “the principal Act” means the *Insurance Act 2008*.

## PART 2 – CAPITAL REQUIREMENTS

### *Capital requirements*

#### 5 Capital requirements for authorised insurers: section 12 substituted

[Substituted section 12 of the principal Act]

#### 6 Duties of authorised insurers and powers of Authority in relation to solvency: sections 12A to 12D inserted

[Inserted sections 12A, 12B, 12C and 12C into the principal Act]

#### 7 Schemes where capital requirements not met: section 13 amended

- (1) Section 13 of the principal Act (consequences of not meeting solvency margins) is amended as follows.
- (2) [Substituted subsection (1)]
- (3) [Amended subsection (2)]
- (4) [Repealed subsection (4)]
- (5) [Substituted subsection (6) and inserted subsections (6A), (6B) and (6C)]
- (6) [Substituted subsection (7)]
- (7) [Amended the heading to the section]

### *Abolition of long-term business fund*

#### 8 Abolition of requirement to maintain long-term business fund: section 19 repealed

[Repealed section 19 of the principal Act]

#### 9 Abolition of requirements in relation to long-term business fund: section 20 repealed

[Repealed section 20 of the principal Act]



*Insurer's assets in winding up***10 Insurer's assets in winding up: Schedule 3 amended**

- (1) Schedule 3 to the principal Act (insolvency and winding-up) is amended as follows.
- (2) [Substituted paragraph 6 and inserted paragraph 6A]
- (3) [Substituted paragraph 7]
- (4) [Repealed paragraph 8]
- (5) [Amended paragraph 10]
- (6) [Inserted paragraph 20 and cross-heading]

**PART 3 — TRANSFER OF INSURANCE BUSINESS***Long-term business***11 Requirement for court sanction except where transferor is holder of a permit issued under section 22: Schedule 2 amended**

- (1) Schedule 2 to the principal Act (transfer of long-term business) is amended as follows.
- (2) [Amended paragraph 2(a)]
- (3) In paragraph 6 —
  - (a) [Substituted sub-paragraph (a)]
  - (b) [Amended sub-paragraph (c)]
- (4) [Amended paragraph 7]
- (5) [Inserted paragraphs 7A, 7B and 7C]
- (6) [Inserted sub-paragraph (za) in paragraph 13]

*Non-long-term business***12 Transfer of insurance business: section 21 amended**

- (1) Section 21 of the principal Act (transfer of insurance business) is amended as follows.
- (2) [Amended subsection (2)]

## PART 4 – GROUP SUPERVISION

### 13 Group supervision of authorised insurers: Part 4A inserted

After section 21 of the principal Act (transfer of insurance business) and immediately before the heading to Part 5 (foreign insurers) insert —

#### **PART 4A – GROUP SUPERVISION**

##### **21A Interpretation**

In this Part, unless the context otherwise requires —

“**college of supervisors**” means a structure for cooperation and coordination among competent authorities;

“**competent authority**” means a regulatory authority that is empowered by law to supervise insurers;

“**designated insurer**” means an insurer designated by the Authority under section 21C(6) in respect of an insurance group;

“**equivalent jurisdiction**” means a jurisdiction that has supervisory standards that the Authority determines to be equivalent to those established by or under this Act;

“**group actuary**” means an individual appointed under section 21I;

“**group supervisor**” in relation to an insurance group, means the Authority or, as the case may be, another competent authority that is the group supervisor for the insurance group.

##### **21B Insurance group (interpretation)**

(1) For the purposes of this Part an “**insurance group**” means 2 or more undertakings consisting of an authorised insurer and —

(a) any other undertaking —

(i) which is the holding company or a subsidiary of the insurer;

(ii) which is a subsidiary of that holding company; or

(iii) in which that holding company, the insurer or any subsidiary of the insurer or the holding company is entitled to exercise, or control the exercise of, 20 per cent or more of the voting power at a general meeting; or

(b) any undertaking other than one mentioned in paragraph (a) which has the power to exercise or actually exercises a dominant influence or control over the authorised insurer.

(2) For the purposes of this Part “**undertaking**” means any of the following —

- (a) a body corporate;
- (b) a partnership;
- (c) an unincorporated association; or
- (d) a trust,

and references to any undertaking mentioned in paragraphs (a) to (d) include a comparable undertaking incorporated in, formed or established under the law of a country or territory outside the Island.

### 21C Group Supervisor

(1) The Authority may, in respect of an insurance group, determine whether it is appropriate for it to be the group supervisor of that group.

(2) Before making such a determination the Authority must take into account the matters set out in subsection (3).

(3) Those matters are —

- (a) whether the insurance group is headed by an authorised insurer;
- (b) where the insurance group is not headed by an authorised insurer whether the insurance group is headed by a holding company which is incorporated in the Island;
- (c) where the insurance group is headed by a holding company which is not incorporated in the Island, whether the Authority is satisfied that —
  - (i) the insurance group is directed and managed from the Island; or
  - (ii) the insurer in the insurance group with the largest balance sheet total is an authorised insurer;
- (d) whether the principal activity of the group is the carrying on of insurance business;
- (e) any other matter which may be prescribed.

(4) The Authority may determine, notwithstanding any other consideration, that it is not appropriate for it to be the group supervisor of an insurance group where the insurance business carried on does not involve liability to third parties.

(5) The Authority must give notice in writing to the proposed designated insurer of the Authority’s intention to make such a determination and must take into account any written

representation made by the proposed designated insurer within such period as the Authority may specify in the notice.

- (6) If the Authority makes a determination under subsection (1) that it is appropriate for it to be the group supervisor in respect of an insurance group, the Authority must designate an authorised insurer who is a member of the insurance group to be the designated insurer in respect of that insurance group for the purposes of this Part.
- (7) The Authority must notify the designated insurer for an insurance group and other competent authorities in writing that the Authority is the group supervisor for that insurance group.
- (8) The Authority must establish and maintain a register containing the prescribed particulars in respect of every insurance group of which it is the group supervisor.
- (9) The designated insurer for an insurance group must immediately notify the Authority of any change of the particulars entered in the register in respect of that insurance group.

#### **21D Excluding undertakings from group supervision**

- (1) The Authority may, on its own initiative or on the application of the relevant designated insurer, exclude from group supervision any undertaking that is a member of an insurance group if the Authority is satisfied that —
  - (a) the undertaking is situated in a country or territory where there are legal impediments to cooperation and exchange of information;
  - (b) the financial operations of the undertaking have a negligible impact on insurance group operations; or
  - (c) the inclusion of the undertaking would be for some other reason inappropriate.
- (2) The Authority must notify the relevant designated insurer and competent authority in writing of any decision to exclude an undertaking from the scope of group supervision.

#### **21E Authority's power to include undertakings within group supervision**

- (1) The Authority may, on its own initiative or on the application of the relevant designated insurer, include within group supervision any undertaking that is a member of the insurance group but is not on the register maintained under section 21C(8) if the Authority is satisfied that —

- (a) the financial operations of the undertaking may have a material impact on the insurance group's operations; and
- (b) the inclusion of the undertaking would be appropriate in the opinion of the Authority.

- (2) The Authority must notify the relevant designated insurer and competent authority in writing of any decision to include an undertaking within the scope of group supervision.

#### **21F Authority's power to withdraw as group supervisor**

- (1) The Authority may withdraw as group supervisor, —
  - (a) on its own initiative;
  - (b) at the request of a competent authority from an equivalent jurisdiction; or
  - (c) on the application of a designated insurer in respect of the insurance group of which it is a member.
- (2) The Authority must notify the relevant insurance group in writing of its intention to withdraw as group supervisor and must take into account any written representation made by the insurance group within such period as it may specify in the notice.
- (3) The Authority may withdraw as group supervisor if —
  - (a) the Authority considers that it would be appropriate to do so having regard to the structure of the insurance group and the relative importance of the insurance group's insurance business in different countries or territories;
  - (b) the Authority determines that there has been a material change in the structure or operations of the insurance group or an absence of cooperation by other competent authorities; or
  - (c) for any other reason that prevents the Authority from effectively discharging its function as group supervisor for that insurance group.
- (4) The Authority must notify the designated insurer and any other relevant competent authority in writing of any decision made by it under this section.

#### **21G Functions of Authority as group supervisor**

The Authority as group supervisor has the following functions with regard to group supervision —

- (a) coordination of the gathering and dissemination of relevant or essential information for going concerns and emergency situations, including the dissemination of information

- which is of importance for the supervisory task of other competent authorities;
- (b) supervisory review and assessment of the financial situation of insurance groups;
  - (c) assessment of compliance of insurance groups with any regulations in relation to solvency and risk concentration and intra-group transactions prescribed by or under this Act;
  - (d) assessment of any system of governance in relation to insurance groups prescribed by or under this Act, and whether the persons involved in the management or administration of participating undertakings meet the requirements set out therein;
  - (e) planning and coordination, through regular meetings held at least annually or by other appropriate means, of supervisory activities in going concerns as well as in emergency situations, in cooperation with the competent authorities concerned and taking into account the nature, scale and complexity of the risks inherent in the business of all undertakings that are part of insurance groups;
  - (f) coordination of any enforcement action that may be taken against insurance groups or any of their members; and
  - (g) planning and coordinating, as required, meetings of colleges of supervisors, to be chaired by a representative of the Authority where the Authority acts as the group supervisor, to facilitate the exercise of the functions set out in paragraphs (a) to (f).

#### **21H Regulations in relation to group supervision**

- (1) The Authority may for the purposes of group supervision make regulations applying to designated insurers which take into account, in their case, any activity of the insurance group of which they are members or of other members of the insurance group.
- (2) Without prejudice to the generality of subsection (1), such regulations may make provision for —
  - (a) the assessment of the financial situation of the insurance group;
  - (b) the solvency position of the insurance group;
  - (c) intra-group transactions and risk concentration;
  - (d) the system of governance and risk management of the insurance group; and

(e) supervisory reporting and disclosures in respect of the insurance group.

(3) The Authority in such regulations may in relation to group financial statements require that they be prepared in the English language and that the currency of any amount shown therein be converted to a currency specified by the Authority as at a specified date.

## 21I Appointment of group actuary

(1) Where any insurer in an insurance group carries on long-term business the designated insurer for that group must ensure that there is appointed an actuary for the group who is qualified in accordance with section 18(2).

(2) No appointment shall be made under subsection (1) unless a written notice containing such particulars as may be determined by the Authority is served on the Authority by the insurer concerned within such period as the Authority may require.

(3) If it appears to the Authority that a person is not a fit and proper person to be appointed as actuary under subsection (1), the Authority may direct that such person shall not, without the written consent of the Authority, be appointed as actuary.

(4) If it appears to the Authority that a person appointed under subsection (1) is not a fit and proper person to continue as such, the Authority may direct that such person shall not, without the written consent of the Authority, continue in such capacity.

(5) The Authority shall give written notice to the person concerned of any decision to make a direction under this section.

(6) Except where the Authority is satisfied that urgent action is necessary, the notice under subsection (5) shall be served on the person not less than 28 days before the date on which the direction is to take effect.

(7) Any consent by the Authority under subsections (3) or (4) may be —

(a) given subject to conditions;

(b) varied from time to time; or

(c) revoked at any time,

and the Authority shall give written notice to the person concerned of any decision to exercise the powers conferred by paragraph (a), (b) or (c).

- (8) No person shall accept or continue in any appointment referred to in subsection (3) or (4) in contravention of a direction under this section.
- (9) It is the duty of a designated insurer to take care not to appoint or continue the appointment of a person in contravention of a direction under this section.
- (10) Whenever an appointment under subsection (1) comes to an end the designated insurer shall —
- (a) within 14 days of the termination of the appointment, notify the Authority in writing of the termination and the reason for the termination;
  - (b) satisfy the Authority that appropriate arrangements have been made to cover any absence of a person appointed under subsection (1); and
  - (c) as soon as practicable following the termination, ensure that the insurance group makes a new appointment under subsection (1).
- (11) Whenever an appointment under subsection (1) comes to an end the person ceasing to be appointed under that provision shall serve a written notice on the Authority containing such particulars as may be prescribed within 14 days of such cessation.
- (12) The Authority may appoint a person qualified in accordance with section 18(2) as actuary to an insurance group where a designated insurer has failed to ensure that an appointment is made under subsection (10)(c) and such appointment shall be deemed to have been made by the designated insurer.
- (13) Where no insurer in an insurance group carries on long-term business regulations may provide for this section to have effect subject to any exception, adaptation or modification specified in the regulations. **22**.

## PART 5 — FINANCIAL RISK AND GOVERNANCE

### *Accounts*

#### **14 Time limits for submission of accounts and other documents: section 14 amended**

- (1) Section 14 of the principal Act (accounts) is amended as follows.
- (2) [Amended subsection (3)]



**15 Accounting requirements for registered insurance managers and intermediaries: Part 6A inserted**

[Inserted Part 6A and section 27A into the *Insurance Act 2008*]

*Actuaries*

**16 Name of professional body for actuaries: section 18 amended**

- (1) Section 18 of the principal Act (actuary) is amended as follows.
- (2) In subsection (2)(a) —
  - (a) [Repealed sub-paragraph (i)]
  - (b) [Amended sub-paragraph (ii)]
- (3) [Amended subsection (3)]
- (4) [Inserted subsection (15)]

**17 Offence (actuary): section 53 amended**

[Inserted subsection (6A) into section 53 of the principal Act]

*Auditors*

**18 Duty of auditors of authorised insurers to report misconduct: section 15A inserted**

[Inserted section 15A in the principal Act]

**19 Requirement for insurance managers and intermediaries to appoint auditors: section 27B inserted**

- (1) The principal Act is amended as follows.
- (2) [Inserted section 27B]

**20 Duty of auditors of registered insurance managers and intermediaries to report misconduct: section 27C inserted**

[Inserted section 27C in the principal Act]

*Principal control officers*

**21 Service of notice where principal control officer is appointed: section 29 amended**

- (1) Section 29 of the principal Act (connected persons) is amended as follows.
- (2) [Amended subsection (1)]

- (3) [Amended subsection (2)]
- (4) [Amended subsection (3)]
- (5) [Amended subsection (9)]

**22 Service of notice where principal control officer ceases to be appointed: section 30 amended**

- (1) Section 30 of the principal Act (notice of cessation) is amended as follows.
- (2) [Amended section 30]
- (3) [Amended section 30]

**23 Definition of principal control officer: section 54 amended**

[Inserted definition of “principal control officer” in section 54(1)]

*Company secretaries*

**24 Service of notice where company secretary appointed: section 29 amended**

- (1) Section 29 of the principal Act (connected persons) is amended as follows.
- (2) [Amended subsections (1), (2) and (3)]

**25 Service of notice where company secretary ceases to be appointed: section 30 amended**

- (1) Section 30 of the principal Act (notice of cessation) is amended as follows.
- (2) [Amended section 30]

*Corporate governance*

**26 Authorised insurer to have regard to principles of good corporate governance: section 17A inserted**

[Inserted section 17A in the principal Act]

**27 Insurance manager and intermediary to have regard to the principles of good corporate governance: section 27D inserted**

[Inserted section 27D in the principal Act]

## PART 6 – AUTHORISATION OF INSURERS

### *Authorisation*

#### **28 Prohibition on acting as authorised insurer: section 5 amended**

- (1) Section 5 of the principal Act (authorised insurers) is amended as follows.
- (2) [Substituted subsection (1)]

#### **29 Provision of documentation: section 6 amended**

- (1) Section 6 of the principal Act (application for authorisation) is amended as follows.
- (2) [Substituted subsection (3)]

#### **30 Requirements for authorisation: section 7 amended**

- (1) Section 7 of the principal Act (circumstances where authorisation not granted) is amended as follows.
- (2) [Amended paragraph (a)]
- (3) [Amended paragraph (b)]
- (4) [Inserted paragraph (ba)]

### *Surrender of authorisation*

#### **31 Surrender of authorisation by authorised insurers: section 10A inserted**

[Inserted section 10A in the principal Act]

## PART 7 – INSURANCE MANAGERS AND INTERMEDIARIES

### *Registration*

#### **32 Prohibition on acting as insurance manager: section 23 amended**

- (1) Section 23 of the principal Act (insurance managers) is amended as follows.
- (2) [Amended subsection (1)]

#### **33 Prohibition on acting as insurance intermediary: section 24 amended**

[Amended section 24 of the principal Act]

**34 Requirements for registration as insurance manager or intermediary: section 25 amended**

- (1) Section 25 of the principal Act (registration under Part 6) is amended as follows.
- (2) [Amended subsection (2)]
- (3) In subsection (3) —
  - (a) [Inserted paragraph (aa)]
  - (b) [Amended paragraph (b)]
  - (c) [Amended paragraph (c)]
  - (d) [Inserted paragraph (ca)]

**35 No requirement for annual registration for insurance intermediaries: section 26 amended**

[Repealed section 26(7) of the principal Act]

*Cancellation of registration*

**36 Cancellation of registration of insurance managers and insurance intermediaries: section 26A inserted**

[Inserted section 26A in the principal Act]

*Ancillary*

**37 Power of Authority to require insurance managers and intermediaries to maintain assets in Island: section 31 amended**

- (1) Section 31 of the principal Act (location of assets) is amended as follows.
- (2) [Amended subsection (1)]
- (3) [Amended subsection (3)]

**38 Evidence in proceedings for winding up of insurance managers and intermediaries: section 27 amended**

[Inserted section 27(3) in the principal Act ]

**39 Definition of insurance intermediary: section 54 amended**

[Substituted definition of “insurance intermediary” in section 54(1) of the principal Act]

## PART 8 – PROHIBITIONS

### *Power to impose prohibition*

#### **40 Prohibitions: sections 29A to 29E inserted**

[Inserted sections 29A to 29E in the principal Act]

### *Contravention of prohibition*

#### **41 Power to issue of public statement where contravention of prohibition: section 35 amended**

- (1) Section 35 of the principal Act (public statements) is amended as follows.
- (2) [Amended subsection (1)(b)]
- (3) [Amended subsection (3)]

#### **42 Injunction where contravention of prohibition: section 38 amended**

- (1) Section 38 of the principal Act (injunctions) is amended as follows.
- (2) In subsection (1) —
  - (a) [Amended paragraph (a)]
  - (b) [Amended paragraph (a)]
  - (c) [Amended paragraphs (b) and (c)]

## PART 9 – REMEDIES AND INVESTIGATIONS (ANCILLARY POWERS)

### *Remedies*

#### **43 Remedies (appointment of receivers and business managers): sections 39A and 39B inserted**

[Inserted sections 39A and 39B in the principal Act]

#### **44 Residual power to impose requirements: section 33 amended**

- (1) Section 33 of the principal Act (residual power to impose requirements) is amended as follows.
- (2) [Amended subsection (1)]

*Investigation***45 Authority's power to appoint independent expert: Schedule 5 amended**

- (1) Schedule 5 to the principal Act (inspection and investigation) is amended as follows.
- (2) [Inserted paragraph 1A and associated cross-heading]
- (3) [Amended paragraph 2(1)]

**46 Disclosure of information: Schedule 6 amended**

- (1) Schedule 6 to the principal Act (restrictions on disclosure of information) is amended as follows.
- (2) [Inserted paragraphs 2(1)(v), (w) (x) and (y)]

**PART 10 – MISCELLANEOUS***Foreign insurers***47 Permission for foreign insurer to carry on non-insurance business away from Island: section 22 amended**

- (1) Section 22 of the principal Act (foreign insurers) is amended as follows.
- (2) [Amended subsection (2)]
- (3) [Inserted subsection (2A)]

*Senior manager***48 Definition of senior manager: section 37 amended**

- (1) Section 37 of the principal Act (civil penalties) is amended as follows.
- (2) [Amended subsection (9)]

*Fees***49 Payment and recovery of fees: section 47 amended**

- (1) Section 47 of the principal Act (fees) is amended as follows.
- (2) [Inserted subsection (1)(h)]
- (3) [Inserted subsection (1A)]
- (4) [Amended subsection (2)]

*Registers***50 Registers to be kept in electronic form: section 48 amended**

- (1) Section 48 of the principal Act (registers) is amended as follows.
- (2) [Amended subsection (1)]
- (3) [Repealed subsection (2)]
- (4) [Substituted subsection (3) and inserted subsection (4)]

*Status of insurance contracts***51 Insurance contracts not to be regarded as gaming or wagering: section 48A inserted**

[Inserted section 48A]

*False or misleading statements***52 False or misleading statements: section 52 amended**

[Amended section 52 of the principal Act]

*Holding company***53 Definition of holding company: section 54 amended**

In section 54(1) of the principal Act (interpretation) after the definition of “financial crime” insert —

- ☐☐ **“holding company”** is construed in accordance with the definition of subsidiary;☐☐.

*Insurance business***54 Definition of insurance business: section 54 amended**

[Inserted paragraph (f) the definition of “insurance business” in section 54(1)]

*Abolition of tribunals and transfer of functions***55 Transfer of functions (tribunals)**

- (1) The functions of the following tribunals are transferred to the Financial Services Tribunal —
  - (a) the Collective Investment Schemes Tribunal;

- (b) the Retirement Benefits Schemes Tribunal;
  - (c) the Insurance Tribunal.
- (2) The tribunals mentioned in subsection (1)(a), (b) and (c) are abolished.
- (3) Schedule 1 (transitional arrangements (tribunals)) has effect.

### *Controller*

#### **56 Definition of controller: section 54 amended**

In section 54(1) of the principal Act (interpretation) in the definition of “controller” —

- (a) [Amended paragraph (c)]
- (b) [Amended paragraph (d)]
- (c) [Inserted paragraphs (e) and (f)]

### *Regulations*

#### **57 Powers to make regulations: Schedule 7 amended**

In Schedule 7 to the principal Act (matters in respect of which regulations may be made) —

- (a) [Inserted paragraph 1A and 1B]
- (b) [Amended paragraph 2]
- (c) [Inserted paragraph 5A]
- (d) [Inserted paragraph 8A]
- (e) [Inserted paragraph 14A]

#### **58 Procedure for regulations: section 50 amended**

- (1) Section 50 of the principal Act (regulations) is amended as follows.
- (2) [Amended subsection (4)]
- (3) [Inserted subsection (5)]

### *Minor amendments*

#### **59 Definition of person: section 54 amended**

[Inserted definition of “person” in section 54(1)]

#### **60 Definition of person: section 48 of the Financial Services Act 2008 amended**

[Inserted definition of “person” in section 48 of the *Financial Services Act 2008* ]



**61 Continuation and discontinuation of insurance companies: Schedule 4 amended**

[Inserted paragraph 10 in Schedule 4]

**62 [Repealed]<sup>3</sup>**

*Supplemental*

**63 Minor and consequential amendments**

Schedule 2 (minor and consequential amendments) has effect.

**64 Repeals**

The provisions mentioned in column 1 of the table in Schedule 3 (repeals) are repealed to the extent mentioned in column 2.



## SCHEDULE 1

## TRANSITIONAL ARRANGEMENTS (TRIBUNALS)

[Section 55]

**1. Interpretation of Schedule**

In this Schedule “**transfer date**” means the date on which the functions of a tribunal mentioned in section 55(1)(a), (b) and (c) are transferred to the Financial Services Tribunal by that provision.

**2. Transitional and saving provisions**

- (1) Any proceedings before any tribunal mentioned in section 55(1)(a),(b) and (c) which are pending immediately before the transfer date shall continue on and after the transfer date as proceedings before the Financial Services Tribunal.
- (2) The following subsections apply where proceedings are continued in the Financial Services Tribunal by virtue of subsection (1).
- (3) Where a hearing began before the transfer date but was not completed by that date, the Financial Services Tribunal must be comprised for the continuation of that hearing of the persons who began it.
- (4) The Financial Services Tribunal may give any direction to ensure that proceedings are dealt with fairly and, in particular, may apply or disapply any provision in rules made under section 8 of the *Tribunals Act 2006* which applied to the proceedings before the transfer date.
- (5) Any direction or order given or made in proceedings which is in force immediately before the transfer date remains in force on and after that date as if it were a direction or order of the Financial Services Tribunal.
- (6) A time period which has started to run before the transfer date and which has not expired shall continue to apply.
- (7) An order for costs may only be made if, and to the extent that, an order for costs could have been made by a tribunal mentioned in section 55(1)(a), (b) and (c) before the transfer date.
- (8) Sub-paragraph (9) applies where —
  - (a) an appeal lies to the High Court from any decision made by the tribunals mentioned in section 55(1)(a),(b) and (c) before the transfer date;
  - (b) the right of appeal has not been exercised;
  - (c) the time to exercise that right of appeal has not expired prior to the transfer date.

- (9) In the circumstances set out in sub-paragraph (8), section 32(7) of the *Financial Services Act 2008* applies as if the decision were a decision made on or after the transfer date by the Financial Services Tribunal.
- (10) Any case to be remitted by the High Court on or after the transfer date and which, if it had been remitted before the transfer date, would have been remitted to a tribunal mentioned in section 55(1)(a),(b) and (c) shall be remitted to the Financial Services Tribunal.
- (11) A decision made by a tribunal mentioned in section 55(1)(a),(b) and (c) before the transfer date is to be treated on or after the transfer date as a decision of the Financial Services Tribunal.
- (12) The functions transferred by section 55 are to be exercised as regards all appeals to those tribunals whether made before or after the transfer.
- (13) A person who immediately before section 55 comes into operation is a member of a tribunal mentioned in subsection (1)(a), (b) or (c) becomes a member of the Financial Services Tribunal for the purposes of any matter referred to in this Schedule.

## SCHEDULE 2

## MINOR AND CONSEQUENTIAL AMENDMENTS

[Section 63]

PART 1 – MINOR AND CONSEQUENTIAL AMENDMENTS TO  
THE PRINCIPAL ACT

## 1 Amendments to the principal Act

- (1) The principal Act is amended as follows.
- (2) [Substituted cross-heading immediately before section 12]
- (3) [Amended section 17]
- (4) [Amended section 40]
- (5) In section 47 (fees) —
  - (a) in subsection (1) after paragraph (a) insert —
 

<ol style="list-style-type: none"> <li>(aa) by each designated insurer (within the meaning given by section 21A) annually on such date in each year as may be prescribed; <del>22</del>;</li> </ol>	
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  - (b) in subsection (2) after the words “subsection (1)” insert ~~22~~(aa), ~~22~~.
- (6) In section 53 (offences) —
  - (a) in subsection (1) —
    - (i) [Inserted paragraph (za)]
    - (ii) [Inserted paragraphs (aa) and (ab)]
    - (iii) [Amended paragraph (b)]
    - (iv) [Repealed paragraphs (d), (e) and (f)]
  - (b) in subsection (2)(e) —
    - (i) [Inserted sub-paragraph (zi)]
    - (ii) [Inserted sub-paragraph (iia)]
    - (iii) [Inserted sub-paragraph (iiia)]
    - (iv) [Inserted sub-paragraph (iva)]
    - (v) [Inserted sub-paragraphs (viiia), (viiib) and (viiic)]
  - (c) [Inserted subsection (2A)]
  - (d) [Amended subsection (5)]
  - (e) [Amended subsection (6)]
- (7) In section 54(1) of the principal Act (interpretation) —
  - (a) [Repealed definition of “long-term business fund”]

- (b) [Amended definition of “annual accounts”]
- (c) [Substituted definition of “prescribed”]
- (8) In Schedule 3 —
  - (a) [Amended paragraph 4(a)]
  - (b) [Amended heading to paragraph 6]
- (9) [Amended paragraph 3(7) of Schedule 5]
- (10) [Amended paragraph 21 of Schedule 7]

## PART 2 –AMENDMENTS (TRIBUNALS)

### 2 Legal Aid Act 1986

[Repealed paragraphs 5D and 5E in Part 1 of Schedule 1 to the *Legal Aid Act 1986*]

### 3 Retirement Benefits Schemes Act 2000

In section 38 of the *Retirement Benefits Schemes Act 2000* —

- (a) [Repealed subsections (1), (2) and (7)]
- (b) [Amended subsection (3)]
- (c) [Amended subsection (6)]
- (d) [Amended section heading]

### 4 Tribunals Act 2006

[Repealed paragraphs 6, 9 and 10 in Part 2 of Schedule 2 to the *Tribunals Act 2006*]

### 5 Principal Act

- (1) The principal Act is amended as follows.
- (2) In section 45 —
  - (a) [Repealed subsections (1), (2) and (7)]
  - (b) [Amended subsection (3)]
  - (c) [Amended subsection (6)]
  - (d) [Amended the heading to the section]
- (3) In section 54(1) —
  - (a) [Inserted definition of “Financial Services Tribunal”]
  - (b) [Repealed definition of “Insurance Tribunal”]
  - (c) [Repealed definition of “Retirement Benefits Schemes Tribunal”]
- (4) [Amended paragraph 2(1)(u) of Schedule 6]

**6 Collective Investment Schemes Act 2008**

- (1) The *Collective Investment Schemes Act 2008* is amended as follows.
- (2) [Amended section 11A(4)(b)(iii)]
- (3) In section 21 —
  - (a) [Repealed subsections (1), (2) and (7)]
  - (b) [Amended subsection (3)]
  - (c) [Amended subsection (6)]
- (4) [Amended definition of “Tribunal” in section 26]

**7 Financial Services Act 2008**

- (1) The *Financial Services Act 2008* is amended as follows.
- (2) [Repealed paragraphs (e), (f) and (h) in section 33(5)]
- (3) [Amended paragraph 2(1)(t) of Schedule 5]

**8 Designated Businesses (Registrations and Oversight) Act 2015**

[Amended paragraph 1(1)(m) of Schedule 2 to the *Designated Businesses (Registration and Oversight) Act 2015*]

## SCHEDULE 3

## REPEALS

[Section 64]

Act	Extent of repeal
Legal Aid Act 1986	In Part 1 of Schedule 1, paragraphs 5D and 5E.
Retirement Benefits Schemes Act 2000	In section 38, subsections (1), (2) and (7).
Tribunals Act 2006	In Part 2 of Schedule 2, paragraphs 6, 9 and 10.
The principal Act	<p>At the end of section 7(b), the word “or”.</p> <p>Section 13(4).</p> <p>In section 18(2)(a), sub-paragraph (i).</p> <p>Section 19.</p> <p>Section 20.</p> <p>In section 22(2), the words “, 16”.</p> <p>In section 25(3) —</p> <p>(a) in paragraph (b), the words “in the case of an applicant who is a body corporate”;</p> <p>(b) in paragraph (c), at the end the word “and”.</p> <p>In section 26, subsection (7).</p> <p>In section 45, subsections (1), (2) and (7).</p> <p>In section 47(1), at the end of paragraph (f) the word “and”.</p> <p>In section 48 —</p> <p>(a) in subsection (1)(b), the word “the”;</p> <p>(b) subsection (2).</p> <p>In section 53(1), paragraphs (d), (e) and (f).</p> <p>In section 54(1) —</p> <p>(a) at the end of paragraph (c) in the definition of “controller” the word “or”;</p> <p>(b) the definition of “Insurance Tribunal”;</p> <p>(c) the definition of “long-term business fund”;</p> <p>(d) the definition of “Retirement Benefits Schemes Tribunal”.</p>



	<p>In Schedule 2, in paragraph 6 the words “nor the holder of a permit issued under section 22”.</p> <p>In Schedule 3 —</p> <p>(a) in the heading to paragraph 6 the words “with long-term business”;</p> <p>(b) paragraph 8;</p> <p>(c) in paragraph 10, the words “representing a fund or funds”.</p>
Collective Investment Schemes Act 2008	<p>In section 11A(4)(b)(iii), the words “constituted under section 21”.</p> <p>In section 21, subsections (1), (2) and (7).</p>
Financial Services Act 2008	In section 33(5), paragraphs (e), (f) and (h).
Interpretation Act 2015	In section 105 in the table, the entry referring to Schedule 10 to the <i>Insurance Act 2008</i> .

## ENDNOTES

## Table of Endnote References

<sup>1</sup> ADO – see table below.

SD Number	Provision	Note	Date in operation
SD 2018/0001	s.16(1), (2) & (3)		01/02/2018
	s.21(1), (2), (3) & (4)		01/02/2018
	s.22 to 25		01/02/2018
	s.47(1), (2)(c) & (3)		01/02/2018
	s.51		01/02/2018
	s.54		01/02/2018
	s.57 to 61		01/02/2018
	Sch.2 para 1(6)(d) & (e)	s.63 to the extent to give effect to paragraphs 1(6)(d) & (e) of Sch.2	01/02/2018
SD 2018/0147	s.5	For the purpose of enabling the Authority to make regulations in respect of any long-term business carried on by an insurer	31/05/2018
	s.6 to the extent that it inserts s.12A into the Insurance Act 2008	For the purpose of enabling the Authority to make regulations in respect of any long-term business carried on by an insurer	31/05/2018
	Sch.2 para 1(10)	s.63 to the extent to give effect to that paragraph in respect of any long term business carried on by the insurer	31/05/2018
	Sch.2 para 1(1)	s.63 to the extent to give effect to that paragraph for all purposes	31/05/2018
	s.5 (to the extent it is not already in operation)	In respect of any long term business carried on by an insurer	30/06/2018
	s.6 (to the extent it is not already in operation)	In respect of any long term business carried on by an insurer	30/06/2018
	s.7	In respect of any long term business carried on by an insurer	30/06/2018
	s.10	In respect of any long term business carried on by an insurer	30/06/2018
	Sch.2 para 1(2), 1(6)(a)(ii) and 1(8)	s.63 to the extent to give effect to those paragraphs in respect of any long term business carried on by an insurer	30/06/2018
	s.8, 9, 11, 12, 14, 15, 17 to 20, 26 to 34, 36 to 46, 48, 50, 52 to 56	For all purposes	30/06/2018
	s.16 (to the extent it is not already in operation)	For all purposes	30/06/2018
	s.21 (to the extent it is not	For all purposes	30/06/2018

	already in operation)		
	s.47 (to the extent it is not already in operation)	For all purposes	30/06/2018
	s.49(1), (3) and (4)(c)	For all purposes	30/06/2018
	Sch.2 paras 1(3), (4), (6)(a)(i), (iii) and (iv), (6)(b) and (c), (7), (9) and Part 2	s.63 to the extent to give effect to those paragraphs for all purposes	30/06/2018
	s.13	In relation to persons carrying out long term business only	30/11/2018
	Sch.2 para 1(5)(a)	In relation to persons carrying out long term business only	30/11/2018
	s.13	In relation to persons carrying out long term business only	01/01/2019
	Sch.2 para 1(5)(a) and (b)	s.63 to the extent to give effect to those paragraphs in relation to persons carrying out long term business only	01/01/2019
SD 2020/0444	s.4		31/12/2020
	s.35		31/12/2020
	s.49 (2), (4)(a) and (b)		31/12/2020
SD 2021/0272	s.5	To the extent that it is not already in operation, for the purpose of enabling the Authority to make regulations under the substituted s.12 of the Insurance Act 2008	30/10/2021
	s.5	To the extent that it is not already in operation, for all purposes	30/06/2022
	s.6	To the extent that it is not already in operation, for the purpose of enabling the Authority to make regulations under the inserted s.12A of the Insurance Act 2008	30/10/2021
	s.6	To the extent that it is not already in operation, for all purposes	30/06/2022
	s.7	To the extent that it is not already in operation, for all purposes	30/06/2022
	s.10	To the extent that it is not already in operation, for all purposes	30/06/2022
	Sch.2 para 1(10)	s.63 to the extent to give effect to that paragraph for the purpose of enabling the Authority to make regulations under the amended para 21 of Schedule 7 to the Insurance Act 2008	30/10/2021
	Sch.2 para 1(10)	To the extent that it is not already in operation, for the purpose of enabling the Authority to make regulations under the amended para 21 of Schedule 7 to the	30/10/2021

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		Insurance Act 2008	
	Sch.2 para 1(10)	s.63 to the extent to give effect to that paragraph for all other purposes	30/06/2022
	Sch.2 para 1(10)	To the extent that it is not already in operation, for all purposes	30/06/2022

<sup>2</sup> Act promulgated 05/07/2018.

<sup>3</sup> S 62 repealed by Statute Law Revision Act 2021 s 21.