

# **INSURANCE ACT 2008**

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## SCHEDULES —

Schedule 1 — Insurance and Pensions Authority

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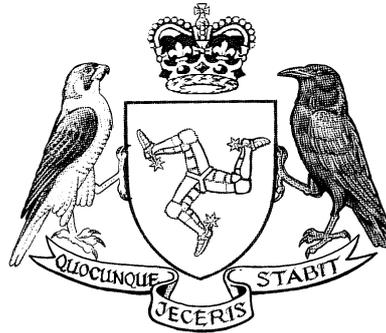
Schedule 6 — Restrictions on disclosure of information

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Isle of Man } Signed in Tynwald: 21st October 2008  
 to Wit } Received Royal Assent: 21st October 2008  
 Announced to Tynwald: 21st October 2008

## AN ACT

to re-enact with amendments certain enactments relating to the regulation of persons carrying on insurance business and the regulation of insurance managers and insurance intermediaries; and for connected purposes.

**B**E 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

#### REGULATORY OBJECTIVES

1. The regulatory objectives are —
  - (a) securing an appropriate degree of protection for policyholders;
  - (b) the maintenance of confidence in the Island's insurance industry in the Island and elsewhere; and
  - (c) the reduction in the extent to which it is possible for any insurance business to be used in connection with the commission of financial crime.

Regulatory objectives  
1986/24/2A(2)
  
2. (1) The Supervisor shall exercise functions under this Act in a way —
  - (a) which is compatible with the regulatory objectives set out in section 1; and

Duty to promote regulatory objectives  
1986/24/2A(1) and (3)

- (b) which the Supervisor considers most appropriate for the purpose of meeting those objectives.
- (2) In exercising functions, the Supervisor shall have regard to —
- (a) the need to balance the regulatory objectives;
  - (b) the international character of the insurance industry and its markets and the desirability of maintaining the competitive position of the Island;
  - (c) the responsibilities of insurers;
  - (d) the need to use resources in an efficient and economic manner;
  - (e) the need to promote public understanding of the insurance industry; and
  - (f) the desirability of insurers —
    - (i) being aware of the risk of their businesses being used in connection with the commission of financial crime;
    - (ii) taking appropriate measures (in relation to administration and employment practices, the conduct of transactions and otherwise) to prevent financial crime, facilitate its detection and monitor its incidence; and
    - (iii) devoting adequate resources to the matters mentioned in sub-paragraph (ii).

## PART 2

### ADMINISTRATION

Insurance and  
Pensions  
Authority

**3.** (1) The Authority shall exercise the functions conferred on it by this Act.

1986/24/1;  
2000/14/Sch 1

(2) Schedule 1 has effect in relation to the Authority and its functions under this Act.

Insurance and  
Pensions  
Supervisor

**4.** The Supervisor —

- (a) is charged with the general administration of this Act and the Retirement Benefits Schemes Act 2000; and

1986/24/2  
[c.14]

- (b) shall exercise such other functions as are conferred on the Supervisor by any enactment.

### PART 3

#### AUTHORISATION OF INSURERS

**5.** (1) An authorised insurer is a person authorised by the Supervisor under section 8 to carry on, and hold itself out as carrying on, insurance business in or from the Island.

Authorised insurers

1986/24/3(1) and (3)

(2) Insurance business may be carried on in or from the Island —

- (a) by an authorised insurer;
- (b) by a person who is the holder of a permit issued under section 22 (foreign insurers);
- (c) by a person who is exempted by regulations from the requirement to be an authorised insurer or to hold a permit issued under section 22;
- (d) by a person who carries on a class of insurance business which is exempted by regulations from the requirement to be carried on by a person specified in this section; or
- (e) by the Government or by a person who is not an authorised insurer but who is acting on behalf of the Government.

**6.** (1) Applications for authorisation to carry on an insurance business shall be made in writing to the Supervisor.

Application for authorisation

1986/24/4 and 5(a)

(2) An applicant shall be a company or a person or class of persons specified in regulations.

(3) An applicant shall provide the Supervisor with such documents and information as may be —

- (a) prescribed; or
- (b) required by the Supervisor.

**7.** The Supervisor shall not authorise an applicant under section 8 if the applicant —

Circumstances in which authorisation will not be granted

1986/24/5(b) to (d)

- (a) does not satisfy the Supervisor that the controller, directors and chief executive (if any) of the applicant are fit and proper persons;

- (b) does not satisfy the Supervisor that it has —
  - (i) an appropriate level of management in the Island; or
  - (ii) appointed a registered insurance manager in the Island,
 with adequate experience of the insurance business carried on; or
- (c) does not comply with the criteria contained in directions issued by the Supervisor.

Authorisation  
1986/24/6(1) **8.** In relation to every application for authorisation, the Supervisor shall —

- (a) authorise the applicant in writing to carry on, subject to such conditions as the Supervisor may impose, an insurance business; or
- (b) refuse the application.

Alteration of conditions of existing authorisations  
1986/24/6(2) **9.** Where an authorisation has been granted under section 8 the Supervisor may, at any time —

- (a) make such authorisation subject to conditions;
- (b) vary or revoke any condition.

Withdrawal of authorisation in respect of new business  
1986/24/9(1) and (2) **10.** (1) The Supervisor may at any time withdraw any authorisation, but only to the extent that the authorised insurer concerned shall cease to be authorised to effect new contracts of insurance.

(2) Withdrawal of authorisation under this section shall not prevent an insurer from effecting a contract of insurance in pursuance of a term of a subsisting contract of insurance.

Statement of reasons  
1986/24/6(3),(4) & (6) and 9(3) & (5) **11.** (1) The Supervisor shall give written notice to the authorised insurer of any decision to exercise the powers conferred by section 9 or 10(1) and such notice shall contain a statement of reasons for the decision.

(2) Except where the Supervisor is satisfied that urgent action is necessary, a notice under subsection (1) shall be served on the insurer not less than 8 weeks before such powers are exercised.

(3) Subsection (2) shall not apply if the powers are exercised with the consent of the insurer concerned.

(4) When the Supervisor exercises any powers under section 9 or 10(1) the Supervisor shall, as soon as practicable, report the fact to the Authority.

(5) When the Supervisor exercises any powers under section 9 or 10(1) the Supervisor may require the insurer to give notice of such exercise in such manner and to such persons as the Supervisor may require.

## PART 4

### REQUIREMENTS FOR AUTHORISED INSURERS

#### *Chapter I*

#### *Solvency, accounts and audit*

**12.** Every authorised insurer shall maintain a margin of solvency of such amount as may be prescribed by or determined in accordance with regulations.

Solvency  
margins

1986/24/17(1)

**13.** (1) If the margin of solvency of an authorised insurer falls below such amount as may be prescribed by or determined in accordance with regulations, the insurer shall at the request of the Supervisor submit to the Supervisor a short-term financial scheme.

Consequences  
of not meeting  
solvency margin

1986/24/17(2)  
to (6)

(2) A scheme under subsection (1) shall be submitted within 30 days of the request of the Supervisor, or such longer period as the Supervisor may permit.

(3) If the Supervisor considers the scheme (or the scheme as previously modified) inadequate the insurer shall propose modifications to it to the Supervisor.

(4) Where an insurer is required to maintain separate margins in respect of its long-term business and its other insurance business, subsection (1) shall have effect as if any reference to the margin of solvency of the insurer is a reference to the aggregate of those margins.

(5) A scheme submitted under subsection (1) may include proposals for —

(a) the appointment of a special manager acceptable to the Supervisor; or

(b) the discontinuance, either in whole or in part, of the insurer's business.

(6) An insurer shall give effect to any scheme accepted by the Supervisor.

[XIII p.235] (7) If an authorised insurer is unable or fails to submit a scheme which is acceptable to the Supervisor, the insurer shall be deemed to be unable to pay its debts for the purposes of section 162 or 307 of the Companies Act 1931 (as the context requires).

Accounts  
1986/24/12  
[VIII p.327]  
[c.19]  
[c.13]

**14.** (1) Unless regulations made in accordance with subsection (2) provide for an alternative system of accounting, the provisions of the Partnership Act 1909, the Companies Acts 1931 to 2004, the Limited Liability Companies Act 1996 and the Companies Act 2006 relating to accounts shall have effect in their application to authorised insurers subject to this Act and to regulations made under this Act.

(2) Regulations may provide for authorised insurers to be subject to a system of accounting that shall be adopted in place of that provided for in subsection (1) and for this purpose may require compliance with standards or the adoption of practices recommended by a body specified in the regulations, and may in particular require compliance with standards or the adoption of practices recommended by that body from time to time (that is, after as well as before the making of the regulations).

(3) A copy of the audited annual accounts of every authorised insurer shall be produced to the Supervisor within 21 days after the date of the meeting at which the accounts were approved by the board of directors and in any event within 6 months after the close of the year to which they relate.

(4) Such statements, reports, certificates and information as may be required by regulations made under this Act, or required by any other enactment to be annexed or attached to the annual accounts for any purpose shall be produced to the Supervisor at the same time as the annual accounts are submitted.

(5) The Supervisor may exempt in writing an insurer specified in the exemption from any provision contained in regulations made under this Act relating to accounts.

Auditor  
1986/24/14

**15.** (1) Every authorised insurer shall appoint a person as auditor to the insurer in accordance with section 29.

(2) An authorised insurer shall give notice in writing to the Supervisor immediately it receives notice of any resolution

intended to be moved at the insurer's annual general meeting to appoint as auditor a person other than the retiring auditor or providing expressly that a retiring auditor shall not be appointed.

(3) Where, for any reason, the appointment of an auditor comes to an end the insurer and the auditor shall, not more than 14 days after the termination, each give notice in writing to the Supervisor of the reasons for the termination.

## *Chapter II*

### *General requirements that apply to all authorised insurers*

**16.** An authorised insurer shall not carry on any activities, in the Island or elsewhere, otherwise than in connection with or for the purpose of its insurance business.

Restriction  
of business  
to insurance

1986/24/18

**17.** Every authorised insurer shall —

Management

1986/24/19

(a) have an appropriate level of management in the Island;  
or

(b) appoint a registered insurance manager in the Island,

with adequate experience of the insurance business carried on.

## *Chapter III*

### *Requirements that apply to all insurers carrying on long-term business*

**18.** (1) Every authorised insurer carrying on long-term business shall appoint as actuary to the insurer a person who is qualified in accordance with subsection (2).

Actuary

1986/24/13

(2) A person shall be qualified for appointment under subsection (1) if —

(a) that person —

(i) is a Fellow of the Institute of Actuaries;

(ii) is a Fellow of the Faculty of Actuaries; or

(iii) satisfies the Supervisor that such person has some other actuarial qualification of similar standing;  
and

(b) the Supervisor is satisfied that such person has experience that fits such person to undertake the functions of an actuary under this Act.

(3) No appointment shall be made under subsection (1) unless a written notice containing such particulars as may be prescribed is served on the Supervisor by the insurer concerned not less than 28 days before the appointment or such shorter period as the Supervisor may agree in writing.

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

(5) If it appears to the Supervisor that an appointed actuary of an authorised insurer carrying on long-term business is not a fit and proper person to continue as such, the Supervisor may direct that such person shall not, without the written consent of the Supervisor, continue as appointed actuary.

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

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

(8) Any consent by the Supervisor under subsections (4) or (5) may be —

(a) given subject to conditions;

(b) varied from time to time; or

(c) revoked at any time,

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

(9) No person shall accept or continue in any appointment referred to in subsection (4) or (5) in contravention of a direction under this section.

(10) It is the duty of an authorised insurer carrying on long-term business to take care not to appoint or continue the appointment of a person in contravention of a direction under this section.

(11) Whenever an appointment under subsection (1) comes to an end the insurer shall —

- (a) within 14 days of the termination of the appointment, notify the Supervisor in writing of the termination and the reason for the termination;
- (b) satisfy the Supervisor that appropriate arrangements have been made to cover any absence of an appointed actuary; and
- (c) as soon as practicable following the termination, make a new appointment under subsection (1).

(12) An insurer which fails to comply with subsection (11)(b) shall not effect any new long-term insurance contracts until a new appointment is made.

(13) Whenever an appointment under subsection (1) comes to an end the person ceasing to be the appointed actuary shall serve a written notice on the Supervisor containing such particulars as may be prescribed within 14 days of such cessation.

(14) The Supervisor may appoint a person qualified in accordance with subsection (2) as actuary to an insurer who has failed to make an appointment under subsection (11)(c) and such appointment shall be deemed to have been made by the insurer.

**19.** (1) All receipts of an authorised insurer's long-term business shall be carried to, and form part of, a special fund with an appropriate name (in this Act referred to as a "long-term business fund").

Assets attributable to long-term business

(2) Every authorised insurer carrying on long-term business shall keep its accounts in respect of such business separate from any accounts kept in respect of any other business.

1986/24/15(1) to (3)

(3) Every authorised insurer shall maintain books of account and other records such that —

- (a) the assets in its long-term business fund; and
- (b) the liabilities of its long-term business,

can be readily identified at any time.

**20.** (1) Subject to subsection (2), the assets in an authorised insurer's long-term business fund shall be applicable only for the purposes of that business notwithstanding any arrangement for its subsequent repayment out of receipts of business other than long-term business.

Use of long-term business assets

1986/24/15(4) to (8)

(2) The restriction imposed by subsection (1) shall not apply to so much of those assets as are certified by the actuary to the insurer to exceed the extent (as so certified) of the liabilities of the insurer's long-term business.

(3) No transfer of assets from the long-term business fund, other than a transfer in accordance with subsection (1), shall be effected without —

(a) the authority of a resolution of the directors of the insurer; and

(b) the written consent of the actuary to the insurer.

(4) Any mortgage, charge or lien shall be void to the extent to which it contravenes subsection (1).

(5) No such insurer shall declare or pay a dividend to any person other than a policyholder unless —

(a) at a date within the year immediately preceding the declaration of the dividend, the value of the assets in its long-term business fund as certified by the actuary to the insurer, exceeds the extent (as so certified) of the liabilities of the insurer's long-term business; and

(b) the amount of such dividend shall not be such as to cause the margin of solvency of the insurer to fall below the amount required under section 12.

#### Chapter IV

##### *Transfer of insurance business*

Transfer of  
insurance  
business

**21.** (1) Schedule 2 (transfer of long-term business) shall have effect.

1986/24/16

(2) Regulations may provide for the provisions of Schedule 2 to have effect in relation to insurance business which is not long-term business subject to the modifications set out in the regulations.

#### PART 5

##### FOREIGN INSURERS

Foreign  
insurers

**22.** (1) Where the Supervisor, upon application by any person, is satisfied that the person is carrying on or has carried on any class of insurance business in a country other than the Island in accordance with the laws of that country, the Supervisor may issue a permit to that person.

1986/24/25(1)

(2) Sections 6(3), 8, 9, 10, 11, 16 and 17 shall have effect, with the necessary modifications, in relation to applicants for permits, permits, and persons who are the holders of permits issued under this section as they apply to applicants for authorisation, authorisations and authorised insurers.

(3) Regulations may direct that any provision of this Act or any regulations made under this Act shall apply to persons who are the holders of permits issued under this section, subject to such exceptions, adaptations and modifications as may be specified.

## PART 6

### INSURANCE MANAGERS AND INSURANCE INTERMEDIARIES

#### *Chapter I*

#### *Insurance Managers*

**23.** (1) A person may, in the course of a business carried on in or from the Island, act as and hold itself to be an insurance manager for, or in relation to, an insurer, if that person is —

Insurance  
managers

1986/24/27(1),  
(1A) and (5)

- (a) registered in the register of insurance managers; or
- (b) exempted from registration by regulations.

(2) A registered insurance manager shall not carry on any activities, in the Island or elsewhere —

- (a) otherwise than in connection with or for the purpose of that person's business as an insurance manager;
- (b) unless the activity is an activity prescribed by regulations.

(3) Where a person carries on a business which in any respect is or in the opinion of the Supervisor appears to be of a similar character to the business carried on by an insurance manager, that person upon a declaration made by the Supervisor in writing shall be subject to the provisions of this section and shall be deemed to be acting as an insurance manager.

#### *Chapter II*

#### *Insurance Intermediaries*

**24.** A person may, in the course of a business carried on in or from the Island, act as and hold itself out to be an insurance

Insurance  
intermediaries

1996/4/1(1)

intermediary in respect of the effecting or carrying out of contracts of insurance which are not investments within the meaning of the Financial Services Act 2008 if that person is —

- (a) registered in the register of insurance intermediaries; or
- (b) exempted from registration by regulations.

### *Chapter III*

#### *Common provisions*

Registration  
under this Part

1996/4/2;  
1986/24/27(2)  
& (4);  
1996/4/1(7)

**25.** (1) Applications for registration under this Part shall be made in writing to the Supervisor.

(2) An applicant for registration under this Part shall provide such documents and information as may be required by the Supervisor.

(3) The Supervisor shall not register an applicant unless the Supervisor is satisfied that —

- (a) the applicant is a fit and proper person;
- (b) in the case of an applicant which is a body corporate, its controller, directors and chief executive (if any) are fit and proper persons;
- (c) the applicant has an appropriate level of management in the Island with adequate experience of the applicant's business; and
- (d) the applicant —
  - (i) has effected a policy of professional indemnity insurance in a prescribed form indemnifying the applicant; or
  - (ii) where the application is for registration as an insurance manager and the applicant is a company which is to act only as insurance manager for associate companies, is otherwise indemnified by an associate company,

to such sum, in such manner, in respect of such matters, and valid for such minimum period as may be prescribed.

(4) The Supervisor may refuse to register any applicant for registration if the Supervisor thinks it proper to do so.

- (5) The Supervisor may at any time —
- (a) make the continued registration of a registered insurance manager or registered insurance intermediary subject to conditions;
  - (b) vary or revoke any conditions imposed.

(6) No contract shall be void or unenforceable, and no right of action in civil proceedings in respect of any loss shall arise, by reason only of the failure of a person to be a registered insurance intermediary under this Act.

**26.** (1) The Supervisor may at any time —

Cancellation  
or restriction

- (a) cancel the registration of a registered insurance manager or a registered insurance intermediary;
- (b) where a class of insurance intermediaries is exempted from registration under this Act, cancel the exemption so far as it applies to a particular person;
- (c) direct a registered insurance manager not to provide management services to insurers to whom it was not providing management services before the direction was made; or
- (d) direct a registered insurance intermediary not to act as insurance intermediary in respect of contracts of insurance which are effected following the direction.

1996/4/4;  
1986/24/27(4);  
1996/4/2(4)

(2) The Supervisor shall give to the manager or intermediary concerned written notice of intention to cancel the registration or exemption or to make a direction (as the case may be), and such notice shall include a statement of reasons for the proposed cancellation or direction.

(3) Except where the Supervisor is satisfied that urgent action is necessary, a notice under subsection (2) shall be served on the manager or intermediary concerned not less than 8 weeks before the date on which the registration or exemption is to be cancelled or the direction is to be made.

(4) Subsection (3) shall not apply where the manager or intermediary consents to the cancellation or making of the direction.

(5) When the Supervisor exercises any powers under this section the Supervisor shall, as soon as practicable, report the fact to the Authority.

(6) Where a registration or exemption has been cancelled or a direction has been made under this section, the manager or intermediary concerned shall, if required by the Supervisor, give notice of the cancellation or direction in such manner and to such persons as the Supervisor may direct.

(7) Registration of a registered insurance intermediary shall expire on the anniversary of such registration unless previously cancelled or suspended.

Winding up  
of insurance  
managers and  
insurance  
intermediaries

1996/4/10A  
[c.13]  
[c.19]

**27.** (1) The Supervisor may present a petition for the winding up of any insurance manager or insurance intermediary that is a company in accordance with the Companies Acts 1931 to 2004, the Companies Act 2006 or the Limited Liability Companies Act 1996, as appropriate.

(2) A petition under subsection (1) may be presented on the ground —

- (a) that the company is unable to pay its debts within the meaning of section 162 or section 307 of the Companies Act 1931 (as the context requires);
- (b) that the company has failed to satisfy an obligation to which it is or was subject by virtue of this Act;
- (c) that the company has carried on in business otherwise than in accordance with this Part;
- (d) that the company, being under a statutory obligation with respect to the keeping of accounting records, has failed to satisfy that obligation or to produce records kept in satisfaction of that obligation and that the Supervisor is unable to ascertain its financial position; or
- (e) that it is expedient in the public interest that the company should be wound up.

[XIII p.235]

## PART 7

### CONNECTED PERSONS

Persons to  
whom this  
Part applies

**28.** (1) Subject to subsection (2), this Part applies to —

- (a) an authorised insurer;
- (b) a registered insurance manager; and
- (c) a registered insurance intermediary,

and the expression “a person to whom this Part applies” shall be construed accordingly.

- (2) The Authority may by regulations exempt —
- (a) a person or class of persons to whom this Part would otherwise apply; and
  - (b) any other person or class of persons,

from a requirement to comply with a provision of this Part.

**29.** (1) No person to whom this Part applies shall appoint a person as director, chief executive, auditor or manager of that person, nor shall a person become controller of, or insurance manager of, a person to whom this Part applies, unless a written notice containing such particulars as may be prescribed is served on the Supervisor by —

Connected  
persons

1986/24/20

- (a) in the case of a director, chief executive, auditor or manager, the person to whom this Part applies; or
- (b) in the case of a controller or insurance manager, the proposed controller or manager,

not less than 28 days before the event or such shorter period as the Supervisor may agree in writing.

(2) If it appears to the Supervisor that any person is not a fit and proper person —

- (a) to be appointed as a director, chief executive, auditor or manager; or
- (b) to become a controller or insurance manager,

of a person to whom this Part applies, the Supervisor may direct that such person shall not, without the written consent of the Supervisor, be appointed as such a director, chief executive, auditor or manager or become such a controller or insurance manager.

(3) If it appears to the Supervisor that any —

- (a) director, chief executive, auditor or manager; or
- (b) controller or insurance manager,

of a person to whom this Part applies, is not a fit and proper person to continue as such, the Supervisor may direct that such person shall not, without the written consent of the Supervisor, continue

as such a director, chief executive, auditor, manager, controller or insurance manager.

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

(5) Except where the Supervisor is satisfied that urgent action is necessary, the notice under subsection (4) shall be served on the person not less than 28 days before the date on which the direction is to take effect.

(6) Any consent by the Supervisor under subsection (2) or (3) may be —

- (a) given subject to conditions;
- (b) varied from time to time; and
- (c) revoked at any time,

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

(7) No person shall —

- (a) accept or continue in any appointment referred to in subsection (2)(a) or (3)(a); or
- (b) become or continue as a controller or insurance manager,

in contravention of a direction under this section.

(8) It is the duty of a person to whom this Part applies to take care not to appoint or continue the appointment of a person in contravention of a direction under this section.

(9) In this section —

“manager” means (except in relation to references to an insurance manager) an individual employed by the insurer concerned who, under the immediate authority of a director or its chief executive —

- (a) exercises managerial functions; or
- (b) is responsible for maintaining the accounts or other records of the insurer.

(10) This section is additional to and not in derogation of any other enactment relating to the qualification, appointment or removal of directors or auditors.

**30.** Where a person ceases to be a director, chief executive, auditor, manager, controller or insurance manager of a person to whom this Part applies, a written notice containing such particulars as may be prescribed shall be served on the Supervisor within 14 days of such cessation by —

Notice of  
cessation

1986/24/20A(1)

- (a) in each case, the person to whom this Part applies; and
- (b) in the case of a person ceasing to be a chief executive, controller or insurance manager, the person ceasing to be the chief executive, controller or insurance manager (as the case may be).

## PART 8

### SUPERVISION

#### *Chapter I*

#### *Supervisor's powers*

**31.** (1) The Supervisor may direct an authorised insurer in writing, to maintain in the Island, or transfer to and keep in the custody of a bank specified in the direction, assets of the insurer of such value and description as may be directed.

Location  
of assets

1986/24/28

(2) No assets kept in the custody of a bank pursuant to a direction given under subsection (1) shall, so long as the direction is in force —

- (a) be removed from the bank; or
- (b) be made the subject of any mortgage, charge or lien,

except with the prior written consent of the Supervisor.

(3) Any mortgage, charge or lien created by an authorised insurer in contravention of subsection (2) shall be void against the liquidator and any creditor of the insurer.

**32.** Schedule 3 (insolvency and winding up) shall have effect.

Winding up  
of insurers

1986/24/23

**33.** (1) The Supervisor may require an insurer, insurance manager, insurance intermediary or any other person involved in the management or administration of an insurer, insurance manager or insurance intermediary to take such action as appears to the Supervisor to be necessary to fulfil the regulatory objectives set out in section 1 and, but without prejudice to the generality of that power —

Residual  
power to  
impose  
requirements

1986/24/22F

- (a) for the purpose of protecting policyholders or potential policyholders of an insurer against the risk that such insurer may be unable to meet its liabilities;
- (b) in the case of long-term business, to fulfil the reasonable expectations of policyholders or potential policyholders; or
- (c) for the purpose of ensuring that the criteria of sound and prudent management are fulfilled with respect to a person referred to in subsection (1).

(2) The power to make a requirement under this section is additional to the other provisions of this Act, any public document under it and any powers of the Supervisor under this Act.

Publication of  
information  
and advice  
1986/24/24A

**34.** (1) The Supervisor may publish information or give advice, or arrange for the publication of information or the giving of advice, in such form and manner as the Supervisor considers appropriate with respect to —

- (a) the operation of this Act and any public document made under it, including in particular —
  - (i) the rights of any policyholders;
  - (ii) the duties of insurers, insurance managers, insurance intermediaries and any other person involved in the management or administration of an insurer, insurance manager or insurance intermediary; and
  - (iii) the steps to be taken for enforcing those rights or complying with those duties;
- (b) any other matters about which it appears to the Supervisor to be desirable to publish information or give advice for the protection of policyholders or any class of policyholders.

(2) The Supervisor may offer for sale copies of information published under this section and may, if the Supervisor thinks fit, make a reasonable charge for advice given under this section at any person's request.

(3) This section shall not be construed as authorising the disclosure of information the publication of which is prohibited under paragraph 2 of Schedule 6 in any case in which it could not be disclosed apart from the provisions of this section.

**35.** (1) The Supervisor may issue a public statement concerning a person if the Supervisor has reasonable grounds to believe that —

Public statements

1986/24/24B;  
1996/4/11

- (a) the person is in contravention of any provision of this Act or of any regulations made under it;
- (b) the person is in contravention of any condition imposed on, direction given to or requirement made of such person under this Act or any regulations made under it; or
- (c) it is desirable to make the statement for the protection of any person or any class of persons.

(2) The Supervisor may pass information about an insurance intermediary to any insurer if it appears to the Supervisor to be desirable to pass the information for the protection of any client of the intermediary.

(3) Before issuing a public statement under this section the Supervisor shall send to the person concerned written notice of the proposed statement.

(4) Except where the Supervisor is of the opinion that immediate action is necessary, a notice under subsection (3) shall be sent not less than 7 days before issuing a public statement under subsection (1) or passing information under subsection (2).

## *Chapter II*

### *Inspection and investigation*

**36.** Schedule 5 (inspection and investigation) shall have effect.

Inspection and investigation

1986/24/21

## *Chapter III*

### *Civil penalties*

**37.** (1) A penalty of such amount as the Supervisor considers appropriate may be imposed on a person by the Supervisor if the Supervisor considers that the person has acted in contravention of a requirement imposed on that person by or under this Act.

Civil penalties

1986/24/22G

(2) If a penalty is imposed under subsection (1) and the Supervisor considers that the relevant contravention was caused or permitted by a controller, director, chief executive or senior manager of the person on whom the penalty is imposed, the Supervisor may in addition impose a penalty of such amount as

the Supervisor considers appropriate on the controller, director, chief executive or senior manager.

(3) Where the Supervisor intends to impose a penalty, the Supervisor shall give notice in writing to the person concerned giving particulars of the alleged contravention, the amount of the penalty and the reasons for the decision.

(4) If the person concerned does not appeal the decision under section 45, the penalty shall be paid to the Treasury within such period as may be prescribed.

(5) If the person concerned does appeal the decision under section 45 and on the determination of the appeal a penalty of any amount is payable, that penalty shall be paid to the Treasury within 14 days of the determination of the appeal.

(6) Where the person concerned fails to pay the penalty, it may be collected by the Treasury as a civil debt due to it.

(7) Any amount received in respect of a penalty levied under this section shall be paid into and form part of the General Revenue of the Island.

(8) This section is in addition to and not in derogation of any other provision of this Act that confers a power or provides for a contravention to be an offence.

(9) In this section, “senior manager” means —

- (a) an employee of the person on whom the penalty was imposed who, jointly with the chief executive, is responsible under the immediate authority of the directors for the conduct of the whole of the insurance business of the person on whom the penalty was imposed;
- (b) an employee of the person on whom the penalty was imposed who, either alone or jointly with others, is responsible under the immediate authority of the directors for the conduct of any other aspect of the business of the person on whom the penalty was imposed (for example finance, marketing or compliance);
- (c) an employee of the person on whom the penalty was imposed, the controller of that person or an associate of that person, who is under the immediate authority of the controller or the directors of an associate, and, either alone or jointly with others, is responsible for the conduct of any such aspect of the business of the person on whom the penalty was imposed.

## PART 9

## SPECIAL REMEDIES

**38.** (1) If on the application of the Supervisor, the High Court is satisfied — Injunctions  
1986/24/28A

- (a) that there is a reasonable likelihood that any person will contravene any provision of this Act or any regulations made under this Act;
- (b) that any person has contravened any such provision and that there is a reasonable likelihood that the contravention will continue or be repeated; or
- (c) that any person has contravened any such provision and that there are steps that could be taken for remedying the contravention,

the Court may grant an injunction restraining the contravention or, as the case may be, make an order requiring that person and any other person who appears to the Court to have been knowingly concerned in the contravention to take such steps as the Court may direct to remedy it.

(2) Nothing in this section affects the right of any person other than the Supervisor or the Authority to bring proceedings in respect of the matters to which this section applies.

**39.** (1) Subject to section 41, the High Court may, on the application of the Supervisor, make an order under subsection (2) if satisfied — Restitution  
orders  
1986/24/28B

- (a) that profits have accrued to any person as a result of that person's contravention of any provision of this Act or any regulations made under this Act; or
- (b) that one or more policyholders have suffered loss or been otherwise adversely affected as a result of that contravention.

(2) The Court may under this subsection order the person concerned to pay into court, or appoint a receiver to recover from that person, such sum as appears to the court to be just having regard —

- (a) in a case within subsection (1)(a), to the profits appearing to the Court to have accrued;
- (b) in a case within subsection (1)(b), to the extent of the loss or other adverse effect; or

- (c) in a case within subsection (1)(a) and (b), to the profits and to the extent of the loss or other adverse effect.

(3) Any amount paid into Court by or recovered from a person in pursuance of an order under subsection (2) shall be paid out to such person or distributed among such persons as the Court may direct, being a person or persons appearing to the Court to have entered into transactions with that person as a result of which the profits mentioned in subsection (2)(a) have accrued to that person or the loss or adverse effect mentioned in subsection (2)(b) has been suffered.

(4) On an application under subsection (1) the Court may require the person concerned to furnish it with such accounts or other information as it may require for —

- (a) establishing whether any and, if so, what profits have accrued to that person as mentioned in subsection (1)(a); and
- (b) determining how any amounts are to be paid or distributed under subsection (3),

and the Court may require any such accounts or other information to be verified in such manner as it may direct.

(5) Nothing in this section affects the right of any person other than the Supervisor or the Authority to bring proceedings in respect of the matters to which this section applies.

Actions for  
damages

1986/24/28C

**40.** (1) Without prejudice to sections 38 and 39, a contravention of this Act or any regulations made under it shall, subject to section 41, be actionable at the suit of a person who suffers loss as a result of the contravention subject to the defences and other incidents applying to actions for breach of statutory duty.

(2) Subsection (1) does not apply to a contravention of any condition or regulation relating to the financial resources of an insurer.

(3) No contravention to which subsection (1) applies shall invalidate any transaction.

Application of  
sections 39  
and 40

1986/24/28D

**41.** Sections 39 and 40 shall apply only to contraventions in respect of activities which constitute investment business activities within the meaning of the Financial Services Act 2008.

## PART 10

## SUPPLEMENTARY

*Chapter I**General*

**42.** (1) The Companies (Transfer of Domicile) Act 1998 shall have effect in relation to insurers which are bodies corporate subject to the modifications set out in Schedule 4.

Continuation  
and  
discontinuation  
of certain  
insurers

(2) Subsection (1) does not apply to insurers which are companies within the meaning of section 219(1) of the Companies Act 2006.

1986/24/25A

[c. 6]  
[c.13]

(3) Regulations may provide for the provisions of Part XI of the Companies Act 2006 (continuation) to have effect in relation to insurers which are companies or foreign companies within the meaning of that Act subject to the modifications set out in the regulations.

**43.** (1) The Authority may make regulations establishing schemes for compensating —

Compensation  
schemes

(a) policyholders in cases where persons who are or have been authorised insurers are unable or likely to be unable to satisfy civil liability claims of policyholders under their policies;

1988/16/21 ;  
2000/14/40

(b) members of retirement benefits schemes in cases where a scheme which is or has been an authorised scheme under the Retirement Benefits Schemes Act 2000 is unable or likely to be unable to satisfy civil liability claims of members of the retirement benefits scheme.

[c.14]

(2) Without prejudice to the generality of subsection (1), regulations may —

(a) provide for the administration of the scheme and the determination and regulation of any matter relating to its operation by such body as appears to the Authority to be appropriate;

(b) establish a fund out of which compensation is to be paid;

(c) provide for the levying of contributions from, or from any class of —

(i) persons who are or who have been authorised insurers; or

[c.14]

(ii) retirement benefits schemes which are or have been authorised under the Retirement Benefits Schemes Act 2000,

and otherwise for financing the compensation scheme and for the payment of contributions and other money into the fund;

- (d) specify the terms and conditions on which, and the extent to which, compensation is to be payable and any circumstances in which the right to compensation is to be excluded or modified;
- (e) provide for treating compensation payable under the scheme in respect of a claim against any person as extinguishing or reducing the liability of that person in respect of the claim and for conferring on the body administering the scheme a right of recovery against that person, being, in the event of that person's insolvency, a right not exceeding such right, if any, as the claimant would have had in that event;
- (f) contain incidental and supplementary provisions; and
- (g) contain transitional provisions, and in particular may provide that rights and liabilities under any existing non-statutory compensation scheme shall be treated as rights and liabilities of the scheme established under the regulations.

(3) Regulations may be made for the purpose of integrating any procedure for which provision is made by virtue of paragraph 2(e) into the general procedure on a winding-up or bankruptcy and may modify the enactments relating to such procedure for that purpose.

Reasons for decisions

1986/24/29A

**44.** (1) This section applies in respect of all decisions that are subject to appeal under section 45 except decisions to which sections 11(1) or 26(2) apply.

(2) The person making the decision shall give written notice stating the reason for the decision to the person in respect of whom the decision is made.

Appeals to the Insurance Tribunal

**45.** (1) For the purposes of this Act there shall be a tribunal known as the Insurance Tribunal.

(2) The Insurance Tribunal shall consist of —

- (a) a chairman appointed in accordance with the Tribunals Act 2006; and [c.1]
- (b) 2 members selected in accordance with regulations made under section 9(b) of the Tribunals Act 2006 from a panel appointed in accordance with that Act.
- (3) Any person who is aggrieved by a decision of the Supervisor or the Authority under this Act may appeal, in accordance with rules made under section 8 of the Tribunals Act 2006, to the Insurance Tribunal.
- (4) On the determination of an appeal under this section the Tribunal shall confirm, vary or revoke the decision in question.
- (5) Any variation or revocation of a decision shall not affect the previous operation of that decision or anything duly done or suffered under it.
- (6) Without prejudice to subsection (7), any decision of the Insurance Tribunal on an appeal under this section shall be binding on the Supervisor, the Authority and the applicant.
- (7) An appeal shall lie to the High Court, in accordance with rules of court, on a question of law from any decision of the Insurance Tribunal.

- 46.** Schedule 6 (restrictions on disclosure of information) shall have effect. Restrictions on disclosure of information  
1986/24/23A;  
1986/24/24
- 47.** (1) The prescribed fees shall be payable — Fees  
1986/24/7;  
1986/24/27A
- (a) by the applicant in respect of any application for authorisation under section 8;
- (b) by the applicant in respect of any application for a permit under section 22;
- (c) by each authorised insurer annually on such date in each year as may be prescribed;
- (d) by each holder of a permit issued under section 22 annually on such date in each year as may be prescribed;
- (e) by the applicant in respect of any application for registration as an insurance manager under section 25;
- (f) by each registered insurance manager annually on such date in each year as may be prescribed; and

(g) by the applicant in respect of every application for registration as an insurance intermediary under section 25,

as the case may require.

(2) Any unpaid fee under subsections (1) (c), (d) and (f) may be sued for by the Supervisor as a civil debt due to the Supervisor.

Registers

1986/24/8;  
1996/4/3

**48.** (1) The Supervisor shall keep registers of —

- (a) authorised insurers;
- (b) the holders of permits issued under section 22;
- (c) insurance managers; and
- (d) insurance intermediaries,

in such form and which shall contain such particulars as may be prescribed.

(2) The registers shall be kept at the office of the Authority or such other place as may be prescribed.

(3) The registers shall be public registers and shall be open to inspection at any time during the ordinary office hours of the Authority.

Indemnity

1986/24/29;  
1996/4/12;  
2000/14/Sch1

**49.** (1) The Treasury, the Authority, the Insurance Tribunal, the Retirement Benefits Schemes Tribunal and the Financial Supervision Commission shall not, nor shall —

- (a) the Supervisor or any officer, member or employee of the Treasury, the Authority, the Insurance Tribunal, the Retirement Benefits Schemes Tribunal or the Financial Supervision Commission; or
- (b) any other person acting on behalf of the Treasury, the Authority, the Insurance Tribunal, the Retirement Benefits Schemes Tribunal or the Financial Supervision Commission; or
- (c) any person acting pursuant to any authority conferred by the Authority,

be liable in damages for, or in respect of, any act or matter done or omitted to be done in the exercise, or purported exercise, of the functions conferred by or under this Act, the Retirement Benefits Schemes Act 2000, the Insurance Companies (Amalgamations) Act 2006, any enactment wholly repealed by this Act or any orders or regulations made under any of those enactments unless the act or matter done or omitted to be done is shown to have been in bad faith.

[c.14]

[c.11]

(2) Subsection (1) does not apply so as to prevent the award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 2001.

[c.1]

**50.** (1) The Authority may make such regulations as it considers are necessary or desirable to carry this Act into effect and, without prejudice to the generality of that power, such regulations may provide for any of the matters mentioned in Schedule 7.

Regulations  
1986/24/32;  
1996/4/13

(2) Regulations may provide for their contravention to be an offence.

(3) Before making any regulations under this section the Authority shall consult with the Treasury and such other organisations and persons as appear to it to be likely to be affected by the proposed regulations.

(4) Regulations shall be laid before Tynwald as soon as practicable after they are made, and if Tynwald at the sitting at which the regulations are laid, or at the next following sitting, resolves that they shall be annulled, the regulations shall cease to have effect from that time.

**51.** (1) The Supervisor may issue Guidance Notes for the purpose of providing binding guidance with respect to —

Guidance  
Notes

1986/24/24C

- (a) this Act and any public document made under it;
- (b) the duties of insurers, insurance managers, insurance intermediaries and any other person involved in the management or administration of an insurer, insurance manager or insurance intermediary;
- (c) the rights of policyholders;
- (d) the steps to be taken for enforcing those rights or complying with those duties;
- (e) any matters about which it appears to the Supervisor to be desirable to give guidance for the protection of policyholders or any class of policyholders;
- (f) any matter falling within the regulatory objectives under section 1 about which it appears to the Supervisor to be desirable to give guidance;
- (g) any matter in respect of which regulations may be made under this Act.

(2) The Supervisor shall take such supervisory action as the Supervisor believes to be appropriate and proportionate in the event of a failure on the part of an insurer, insurance manager, insurance intermediary or any other person involved in the management or administration of an insurer, insurance manager or insurance intermediary to observe any provision of Guidance Notes.

(3) Subject to subsections (2) and (5), a failure on the part of any person to observe any provision of Guidance Notes shall not of itself render that person liable to civil or criminal proceedings in any court.

(4) Where in any criminal or civil proceedings or civil penalty proceedings under any enactment, a person is alleged to have been in contravention of any provision of any enactment being an enactment in respect of which there were Guidance Notes at the time of the alleged contravention, any provision of the Guidance Notes which appears to be relevant to the contravention shall be admissible in evidence in the proceedings.

(5) In this section, “supervisory action” means the exercise of such power (including the imposition of a civil penalty under section 37) as is permitted by any enactment in or under this Act.

(6) Guidance Notes shall not be issued or withdrawn before the Supervisor has consulted such persons or bodies as appear to the Supervisor to be appropriate.

(7) Guidance Notes under this section shall be laid before Tynwald as soon as practicable after being issued.

## *Chapter II*

### *Offences and penalties*

False  
statements,  
etc

1986/24/30

**52.** No person shall —

- (a) cause or permit to be included in any book or document provided or produced to the Authority or the Supervisor, a statement which that person knows to be false in a material particular or recklessly causes or permits to be so included any statement which is false in a material particular; or
- (b) in purported compliance with any provision of this Act or a requirement imposed under any such provision, provide information which that person knows to be false in a material particular or recklessly provides information which is false in a material particular.

Offences

1986/24/31;  
1986/24  
20A(3);  
1996/4/15

**53.** (1) An authorised insurer commits an offence if it fails to comply with—

- (a) any conditions imposed under sections 8 or 9;
  - (b) section 14(3) or (4), subject to any exemptions granted under section 14(5);
  - (c) a direction under section 18(4) or (5);
  - (d) section 19;
  - (e) section 20(1), (3) or (5); or
  - (f) a direction under section 31(1).
- (2) A person commits an offence if that person —
- (a) carries on or holds itself out as carrying on insurance business in or from the Island otherwise than in accordance with section 5(2);
  - (b) acts or holds itself out as acting as an insurance manager in the course of a business carried on in or from the Island otherwise than in accordance with section 23(1) or (2);
  - (c) acts or holds itself out as acting as an insurance intermediary in the course of a business carried on in or from the Island in respect of the effecting or carrying out of contracts of insurance which are not investments within the meaning of the Financial Services Act 2008 otherwise than in accordance with section 24;
  - (d) in the course of business intentionally takes or uses any style, title or description falsely implying, or otherwise pretending, that such person is registered under section 25; or
  - (e) fails to comply with —
    - (i) a direction under section 26(1);
    - (ii) a requirement under section 26(6);
    - (iii) a direction under section 29(2) or (3);
    - (iv) section 30;
    - (v) a requirement under section 33(1);
    - (vi) section 52;
    - (vii) paragraphs 4 or 12 of Schedule 2;
    - (viii) paragraph 1(4) of Schedule 5;

- (ix) paragraph 2(4) of Schedule 5;
- (x) paragraph 3(6) of Schedule 5; or
- (xi) paragraph 1(1) of Schedule 6.

(3) A person guilty of an offence under any provision of this Act or regulations made under this Act is liable —

- (a) on summary conviction, to a fine not exceeding £5,000 or to custody for a term not exceeding 6 months, or to both;
- (b) on conviction on information, to a fine or to custody for a term not exceeding 2 years, or to both.

(4) In proceedings against a person for an offence under this Act or regulations it shall be a defence for the person to show that such person took all reasonable steps and exercised all due diligence to avoid committing the offence.

(5) In proceedings against a person for a contravention of section 30, it shall be a defence for that person to show that such person did not know of the cessation of director, chief executive, auditor, manager, controller or insurance manager (as the case may be).

(6) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, chief executive, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in such capacity, that person, as well as the body corporate, shall be guilty of that offence and liable to be proceeded against and punished accordingly.

(7) Where the affairs of a body corporate are managed by its members, subsection (6) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

(8) No person shall be prosecuted for an offence under this Act without the consent of the Attorney General.

### *Chapter III*

#### *Final provisions*

Interpretation **54.** (1) In this Act —

1986/24/34

“actuary to the insurer” means the person appointed as such in accordance with section 18;

“advertisement” includes every form of advertising, whether in a publication or by the display of notices or by means of circulars or other documents or by an exhibition of photographs or cinematograph films or by way of sound broadcasting, television, telecommunications or any electronic media;

“annual accounts” means —

(a) where section 14(1) applies —

- (i) the revenue or fund account for the financial year;
- (ii) the profit and loss account for the financial year or, in the case of an insurer not trading for profit, an income and expenditure account for that year; and
- (iii) the balance sheet as at the end of the financial year, in such forms as may be prescribed; or

(b) where regulations apply for the purposes of section 14(2), such accounts for such period as may be specified in those regulations in such forms as may be prescribed;

“associate” means, in relation to any person —

- (a) the wife or husband or minor son, step-son, daughter or step-daughter of that person;
- (b) any company of which that person is a director;
- (c) any person who is an employee or partner of that person;
- (d) if that person is a body corporate —
  - (i) any director of that body;
  - (ii) any subsidiary of that body;
  - (iii) any holding company of that body;
  - (iv) any subsidiary of that holding company;
  - (v) any director or employee of any such holding company or subsidiary;

“authorised” in relation to an insurer means authorised under section 8 to carry on an insurance business, and “authorisation” shall be construed accordingly;

“the Authority” means the Insurance and Pensions Authority;

“chief executive” means —

- (a) in relation to an authorised insurer, an employee of such insurer, who, either alone or jointly with others, is responsible under the immediate authority of the directors for the conduct of the whole of the insurance business of that insurer;
- (b) in relation to an insurance manager or insurance intermediary which is a body corporate, an employee of such body, who, either alone or jointly with others, is responsible under the immediate authority of the directors for the conduct of the whole of the business of the body;

“company” means a company —

- (a) incorporated under the Companies Acts 1931 to 2004 or an existing company within the meaning of the Companies Act 1931;
- (b) incorporated under the Companies Act 2006; or
- (c) formed under the Limited Liability Companies Act 1996;

[XIII p.235]

[c.13]

[c.19]

“conditions” includes restrictions;

“contract of insurance” includes any contract the effecting of which constitutes the carrying on of insurance business;

“controller” in relation to a person which is a body corporate, means —

- (a) a managing director of a body corporate of which the person is a subsidiary;
- (b) a chief executive of a body corporate of which the person is a subsidiary;
- (c) a person in accordance with whose directions or instructions one or more of the directors of a body corporate of which the person is a subsidiary are accustomed to act unless the director or directors are accustomed so to act by reason only that they do so on advice given by that person in a professional capacity; or
- (d) a person who either alone or with any associate or associates is entitled to exercise or control the exercise of 15 per cent or more of the voting power at any general meeting of the person or of another body corporate of which it is a subsidiary;

“crime” means any conduct which —

- (a) constitutes one or more criminal offences (whether under the law of the Island or of any country or territory outside the Island); or
- (b) is, or corresponds to, any conduct which, if it all took place in the Island, would constitute one or more criminal offences;

“criminal investigation” means an investigation of any crime, including an investigation of any alleged or suspected crime and an investigation of whether a crime has been committed;

“director” means any person appointed as a director of any body corporate and includes —

- (a) any person occupying the position of director by whatever name called;
- (b) any person in accordance with whose directions or instructions one or more of the appointed directors are accustomed to act unless the appointed director or directors are accustomed so to act by reason only that they do so on advice given by that person in a professional capacity;

“financial crime” includes any crime involving —

- (a) fraud or dishonesty;
- (b) misconduct in, or misuse of information relating to, a financial market; or
- (c) handling the proceeds of crime or funds connected with terrorism;

“insurance” includes assurance and reinsurance;

“insurance business” means the business of effecting or carrying out of contracts of insurance and includes —

- (a) the effecting or carrying out by a person of contracts for fidelity bonds, performance bonds, administration bonds, bail bonds or customs bonds or similar contracts of guarantee, being contracts effected by way of business (and not merely incidentally to some other business carried out by the person effecting them) in return for the payment of one or more premiums;
- (b) the effecting or carrying out of tontines;
- (c) the effecting or carrying out, by a body that carries on business which is insurance business apart from this paragraph, of capital redemption contracts;

- (d) the effecting or carrying out of contracts to pay annuities on human life;
- (e) the effecting or carrying out of contracts that include provisions of insurance or that include options to enter into contracts of insurance;

“insurance intermediary” means —

- (a) a person who holds an appointment in writing from an insurer enabling that person to conclude contracts of insurance on behalf of, or place insurance business with, that insurer; or
- (b) a person who brings together, either directly or through the agency of a third party, with a view to the insurance of risks, persons seeking insurance and insurers, and carries out work preparatory to the conclusion of contracts of insurance;

“insurance manager” means a person, not being an employee of an insurer, who —

- (a) provides management services for one or more insurers; or
- (b) holds that person out as a manager in relation to one or more insurers,

but does not include the keeping of insurance business accounts for an authorised insurer or an insurance manager;

“Insurance Tribunal” means the tribunal established under section 45;

“insurer” means a person carrying on an insurance business (and includes an authorised insurer and an insurer which is the holder of a permit issued under section 22);

“long-term business” means any kind of insurance business declared by regulations to be long-term business;

“long-term business fund” has the meaning given by section 19(1);

“long-term insurance contracts” means contracts, the effecting or carrying out of which constitutes long-term business;

“policyholder” means a person who for the time being is the legal holder of a policy for securing a contract with an insurer, and —

- (a) in relation to such long-term business as consists in the granting of annuities upon human life, includes an annuitant; and
- (b) in relation to insurance business of any other kind, includes a person to whom, under a policy, a benefit is due or a periodic payment is payable;

“prescribed” means prescribed by regulations;

“register” means the register of authorised insurers, insurance managers or insurance intermediaries (as the context requires) kept by the Supervisor under this Act, and “registration” and “registered” shall be construed accordingly;

“regulations” means regulations made under section 50;

“Retirement Benefits Schemes Tribunal” means the tribunal established under section 38 of the Retirement Benefits Schemes Act 2000; [c.14]

“subsidiary” has the meaning given by section 1 of the Companies Act 1974 or section 220 of the Companies Act 2006 (as the context requires); [c.30]  
[c.13]

“Supervisor” means the Insurance and Pensions Supervisor, being the person for the time being holding the office of Chief Executive Officer of the Authority.

(2) For the purposes of this Act, a person is treated as carrying on business in or from the Island or acting in the course of a business carried on in or from the Island (as the case may be) if that person is —

- (a) a company incorporated in the Island; or
- (b) a company incorporated outside the Island which is registered under Part XI of the Companies Act 1931; [XIII p.235]  
or
- (c) a limited partnership registered in the Island under Part II of the Partnership Act 1909, [VIII p.327]

and carries on, or acts in the course of a, business outside the Island.

**55.** (1) The expenses incurred for the purposes of this Act by the Treasury, the Authority and the Supervisor shall be defrayed out of moneys provided by Tynwald. Financial provisions  
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(2) Any fees payable under this Act shall form part of the General Revenue of the Island.

Amendments **56.** The enactments specified in Schedule 8 are amended in accordance with that Schedule.

Repeals **57.** The enactments specified in Schedule 9 are repealed in accordance with that Schedule.

Savings and transitional provisions **58.** The saving and transitional provisions in Schedule 10 shall have effect.

Short title and commencement **59.** (1) This Act may be cited as the Insurance Act 2008.

(2) This Act shall come into operation on such day as may be appointed by order made by the Authority and different days may be so appointed for different provisions and for different purposes.

(3) An order under subsection (2) may make such transitional and saving provisions as the Authority considers necessary in connection with any provision brought into force by the order.

## INSURANCE AND PENSIONS AUTHORITY

*Constitution of the Authority*

**1.** (1) There shall continue to be a Statutory Board known as the Insurance and Pensions Authority (“the Authority”).

(2) The Authority shall consist of at least 3 members appointed by the Treasury subject to the approval of Tynwald.

(3) The Treasury shall appoint one member of the Authority to be chairman.

(4) The Treasury shall, in appointing members of the Authority under sub-paragraph (2), have regard to the need for the Authority to include members who are appropriately qualified (by experience or otherwise) to participate in the functions of the Authority.

(5) The persons who, immediately before the commencement of this Schedule, held office as the chairman and members of the Authority shall continue to be the chairman and members of the Authority and —

(a) they shall hold office as if appointed under sub-paragraph (2) or, as the case may be, sub-paragraph (3); and

(b) they shall hold office until the general election of the Keys following the commencement of this Schedule.

*Proceedings, administration etc. of the Authority*

**2.** (1) Paragraph 7 of Schedule 2 to the Statutory Boards Act 1987 [c.14] (compulsory acquisition of land) shall not apply to the Authority.

(2) The Authority shall appoint —

(a) a Chief Executive Officer; and

(b) such other officers and servants as it may consider necessary for carrying out its functions,

on such terms and conditions as it thinks fit.

(3) The Civil Service Act 1990 shall not apply in respect of the persons [c.8] referred to in sub-paragraph (2).

**3.** The Chief Executive Officer for the time being shall be the Supervisor under this Act and shall act as such under the authority of the Authority for the purposes of this Act.

*Functions of the Authority*

**4.** The Authority’s general functions are —

SCH. 1  
[c.14]

- (a) the making of public documents under this Act and the Retirement Benefits Schemes Act 2000 (“the Acts”);
- (b) supervising and keeping under review the administration and implementation of the Acts;
- (c) supervising and keeping under review the exercise of functions by the Supervisor under the Acts;
- (d) keeping under review the question whether the Supervisor is, in exercising the Supervisor’s functions under the Acts, using resources in an efficient and economic manner;
- (e) considering and making recommendations or issuing directions to the Supervisor as a result of —
  - (i) reviews carried out by it; or
  - (ii) reports made to it by the Supervisor;
- (f) otherwise giving guidance and directions to the Supervisor;
- (g) determining the general policy and principles by reference to which it performs particular functions.

**5.** The Authority —

- (a) shall give the Chief Executive Officer such directions as appear to the Authority to be proper for the guidance of the Chief Executive Officer; and
- (b) may give the Chief Executive Officer such directions as it thinks fit with respect to the exercise or performance of the powers of the Chief Executive Officer under the Acts whether generally or in any particular case,

and the Chief Executive Officer shall comply with any such directions.

**6.** The failure by the Chief Executive Officer to observe any provision of directions given by the Authority shall not invalidate any authorisation, permit, recognition, licence or registration under the Acts.

**7.** If for any reason —

- (a) the office of Chief Executive Officer is vacant; or
- (b) the Chief Executive Officer is, in the opinion of the Authority, unable to exercise such person’s functions under any provision of the Acts,

the Authority shall appoint a person who may, during such absence or inability, exercise any function conferred on the Supervisor under those provisions.

## TRANSFER OF LONG-TERM BUSINESS

1. Where it is proposed to carry out a scheme under which the whole or part of the long-term business carried on by an insurer (“the transferor”) is to be transferred to another insurer (“the transferee”) the transferor or transferee may apply to the Chancery Division, by petition, for an order sanctioning the scheme.
2. The court shall not determine an application under this Schedule unless —
  - (a) the petition is accompanied by a report on the terms of the scheme by an independent actuary (not being an employee of, or the actuary to, either insurer); and
  - (b) the court is satisfied that the requirements of paragraph 3 have been complied with or that in the circumstances compliance is unnecessary.
3. The requirements referred to in paragraph 2(b) are —
  - (a) that a notice has been published in two newspapers published and circulating in the Island stating that the application has been made and giving the address of the offices at which, and the period for which, copies of the documents mentioned in sub-paragraph (d) will be available as required by that sub-paragraph;
  - (b) except where the court has otherwise directed, that a statement —
    - (i) setting out the terms of the scheme; and
    - (ii) containing a summary of the report mentioned in paragraph 2(a) sufficient to indicate the opinion of the actuary on the likely effects of the scheme on the long-term policyholders of the insurers concerned,has been sent to each of those policyholders and to every member of those insurers;
  - (c) that a copy of the petition, of the report mentioned in paragraph 2(a) and of any statement sent out under sub-paragraph (b) has been served on the Supervisor and that a period of not less than 3 weeks has elapsed since the date of such service;
  - (d) that copies of the petition and of the report mentioned in paragraph 2(a) have been open to inspection at offices in the Island of the insurers concerned or their representatives for a period of not less than 3 weeks beginning with the date of the first publication of a notice in accordance with sub-paragraph (a).
4. Each of the insurers concerned shall furnish a copy of the petition and of the report mentioned in paragraph 2(a) to any person who asks for one at any time before an order sanctioning the scheme is made on the petition.
5. On any petition under this Schedule —

SCH. 2

- (a) the Supervisor; and
- (b) any person (including any employee of the transferor or the transferee) who alleges that such person would be adversely affected by the carrying out of the scheme,

shall be entitled to be heard.

**6.** The court shall not make an order sanctioning the scheme unless it is satisfied —

- (a) where the transferor is an authorised insurer, that the transferee is, or immediately after the making of the order will be, authorised to carry on any long-term business to be transferred under the scheme;
- (b) where the transferor is the holder of a permit issued under section 22, that the transferee is, or immediately after the making of the order will be —
  - (i) authorised to carry on any long-term business to be transferred under the scheme;
  - (ii) the holder of a permit issued under section 22 in respect of any long-term business to be transferred under the scheme; or
  - (iii) carrying on long-term insurance business in a country other than the Island in accordance with the laws of that country; or
- (c) where the transferor is neither an authorised insurer nor the holder of a permit issued under section 22, but is carrying on long-term insurance business in a country other than the Island in accordance with the laws of that country, that the transferee is, or immediately after the making of the order will be —
  - (i) authorised to carry on any long-term business to be transferred under the scheme; or
  - (ii) the holder of a permit issued under section 22 in respect of any long-term business to be transferred under the scheme.

**7.** No such transfer as is mentioned in paragraph 1 shall be carried out unless the scheme relating to the transfer has been sanctioned by the court in accordance with this Schedule.

[XIII p.235]  
[c.13]

**8.** No order shall be made under section 152 or 153 of the Companies Act 1931 or sections 157 or 158 of the Companies Act 2006 in respect of so much of any compromise or arrangement as involves any transfer as is mentioned in paragraph 1.

**9.** Where the court makes an order under this Schedule sanctioning a scheme the court may, either by that order or by any subsequent order, make provision for all or any of the following matters —

- (a) the transfer to the transferee of the whole or any part of the undertaking and of the property or liabilities of the transferor; SCH. 2
- (b) the allotting or appropriation by the transferee of any shares, debentures, securities, policies or other like interests in the transferee which under the scheme are to be allotted or appropriated by the transferee to or for any person;
- (c) the continuation by or against the transferee of any legal proceedings pending by or against the transferor;
- (d) the dissolution, without winding up, of the transferor;
- (e) such incidental, consequential and supplementary matters as are necessary to secure that the scheme shall be fully and effectively carried out.

**10.** Where any such order provides for the transfer of property or liabilities, that property shall, by virtue of the order, be transferred to and vest in, and those liabilities shall, by virtue of the order, be transferred to and become the liabilities of, the transferee, and in the case of any property, if the order so directs, freed from any mortgage or charge which is by virtue of the scheme to cease to have effect.

**11.** For the purposes of any provision requiring the delivery of an instrument of transfer as a condition for the registration of a transfer of any property (including in particular section 64 of the Companies Act 1931 and section 47 of the Companies Act 2006) an order which by virtue of this Schedule operates to transfer any property shall be treated as an instrument of transfer.

**12.** Where a scheme is sanctioned by an order of the court under this Schedule the transferee shall, within 10 days from the date on which the order is made, or such longer period as the Supervisor may allow, deposit 2 certified copies of the order with the Supervisor.

**13.** In this Schedule —

- (a) “property” includes property, rights and powers of every description;
- (b) “liabilities” includes duties;
- (c) “share” and “debenture” have the same meaning as in the Companies Act 1931; and
- (d) “securities” has the same meaning as in the Companies Act 2006.

1986/24/Sch3 Section 32

## SCHEDULE 3

## INSOLVENCY AND WINDING UP

*Winding up of insurers*

[c.13] **1.** (1) The provisions of the Companies Acts 1931 to 2004, the Companies  
[c.19] Act 2006 and the Limited Liability Companies Act 1996 relating to the winding  
up of companies shall, in relation to any insurance company, have effect subject  
to the provisions of this Schedule.

(2) In this Schedule, “insurance company” means a company which is an insurer.

**2.** Subject to paragraph 3, a petition for the winding up of an insurance company shall not be presented except by leave of the court.

**3.** Paragraph 2 shall not apply to a petition presented by the Supervisor.

*Winding up on petition of Supervisor*

[XIII p.235] **4.** The Supervisor may present a petition for the winding up, in accordance with section 164 of the Companies Act 1931, of any insurance company, on the ground —

- (a) that the company is unable to pay its debts within the meaning of section 162 of the Companies Act 1931 or section 13(7) of this Act;
- (b) that the company has failed to satisfy an obligation to which it is or was subject by virtue of this Act or any enactment repealed by this Act;
- (c) that the company has carried on in business otherwise than in accordance with section 5;
- (d) that it is expedient in the public interest that the company should be wound up; or
- (e) that the company has failed to satisfy a statutory obligation concerning the keeping of accounting records or the production of records kept in satisfaction of that obligation and that the Supervisor is unable to ascertain its financial position.

**5.** In any proceedings on a petition to wind up a company presented by the Supervisor under paragraph 4, evidence that such company was insolvent at the close of the period to which the annual accounts of the company last submitted under section 14(3) relate shall be evidence that the company continues to be unable to pay its debts, unless the contrary is proved.

*Winding up of insurer with long-term business*

**6.** No insurance company which carries on long-term business shall be wound up voluntarily.

7. Subject to paragraph 8, in any winding up — SCH. 3

- (a) the assets in the company's long-term business fund shall be available only for meeting the liabilities of the company attributable to its long-term business;
- (b) the other assets of the company shall be available only for meeting the liabilities of the company attributable to its other business.

8. Where the value of the assets mentioned in either sub-paragraph of paragraph 7 exceeds the amount of the liabilities mentioned in that sub-paragraph, the restriction imposed by that sub-paragraph shall not apply to so much of those assets as represents the excess.

9. In relation to the assets falling within either sub-paragraph of paragraph 7 the creditors mentioned in subsections (1) and (2) of section 185 of the Companies Act 1931 shall be only those who are creditors in respect of liabilities falling within that sub-paragraph; and any general meetings of creditors summoned for the purposes of that section shall accordingly be separate general meetings of the creditors in respect of the liabilities falling within each sub-paragraph.

10. Where under section 260(1) of the Companies Act 1931, a court orders any money or property to be repaid or restored to an insurance company or any sum to be contributed to its assets then, if and so far as the wrongful act which is the reason for the making of the order related to assets representing a fund or funds maintained by the company in respect of its long-term business, the court shall include in the order a direction that the money, property or contribution shall be treated for the purposes of this Act as assets of that fund or funds and this Act shall have effect accordingly.

*Continuation of long-term business of insurers in liquidation*

11. This paragraph and paragraphs 12 to 18 have effect in relation to the winding up of an insurance company carrying on long-term business.

12. The liquidator shall, unless the court otherwise orders, carry on the long-term business of the company with a view to its being transferred as a going concern to another body corporate, whether an existing body corporate or a body corporate formed for that purpose.

13. In carrying on a business in accordance with paragraph 12, the liquidator may agree to the variation of any contracts of insurance in existence when the winding up order is made but shall not effect any new contracts of insurance.

14. If the liquidator is satisfied that the interests of the creditors in respect of liabilities of the company attributable to its long-term business require the appointment of a special manager of the company's long-term business, the liquidator may apply to the court.

15. On an application under paragraph 14, the court may appoint a special manager of the company's long-term business to act during such time as the

SCH. 3 court may direct, with such powers, including any of the powers of a receiver or manager, as may be entrusted to that person by the court.

**16.** A special manager appointed under paragraph 15 shall —

- (a) give such security and account in such manner as the court may direct; and
- (b) receive such remuneration as may be fixed by the court.

**17.** The court may, if it thinks fit and subject to such conditions (if any) as it may determine, reduce the amount of the contracts made by such company in the course of carrying on its long-term business.

**18.** The court may, on the application of the liquidator, a special manager appointed under paragraph 15 or the Supervisor, appoint an independent actuary to investigate the long-term business of such company and to report to the liquidator, the special manager or the Supervisor, as the case may be, on the desirability or otherwise of that business being continued and on any reduction in the contracts made in the course of carrying on that business that may be necessary for its successful continuation.

*Reduction of contracts as alternative to winding up*

**19.** In the case of an insurance company which has been proved to be unable to pay its debts, the court may, if it thinks fit, reduce the amount of the contracts of the company on such terms and subject to such conditions as the court thinks just, in place of making a winding up order.

## Section 42(1)

## SCHEDULE 4

CONTINUATION AND DISCONTINUATION  
OF INSURANCE COMPANIES*Modifications to the 1998 Act*

**1.** In the Companies (Transfer of Domicile) Act 1998 (“the 1998 Act”), for [c.6] section 1 (application of Part 1) substitute —

“**1.** (1) This Part shall apply in respect of a body corporate which is —

(a) incorporated outside the Island; and

(b) permitted to carry on insurance business by the competent authorities in the country or territory in which the body corporate is incorporated.

(2) In this Part, a body corporate to which this Part applies is referred to as an “offshore insurer”.”.

**2.** In section 2 of the 1998 Act (application for consent to be continued in the Island) —

(a) after subsection (2)(c), insert —

“(ca) a business plan for the continuation of the insurance business to the satisfaction of the Supervisor;”;

(b) in subsection (3), after the word “business” insert “and the classes of insurance business that it carries on”.

**3.** After section 5(4) of the 1998 Act (effect of continuance), insert —

“(5) If a continued insurer ceases to carry on insurance business and it appears to the Supervisor that it is expedient in the public interest that the company should be wound up, the Supervisor may, unless the company is already being wound up by the court, present a petition for the winding up of the company if the court thinks it proper for it to be so wound up.”.

**4.** For section 7 of the 1998 Act (application of Part 2) substitute —

“**7.** (1) This Part shall apply in respect of a company which is —

(a) incorporated under the Companies Acts; and

(b) authorised under section 8 of the Insurance Act 2008 to carry on insurance business.

(2) In this Part, a company to which this Part applies is referred to as an “Isle of Man insurer”.”.

SCH. 4

**5.** After section 13 of the 1998 Act (consequences of discontinuance of Isle of Man company) insert —

“Effect on insurance business **13A.** Any current authorisation issued to an Isle of Man insurer shall cease to have effect on the date of the certificate of discontinuance.”.

**6.** Section 14 of the 1998 Act (review of decisions) shall not apply.

**7.** References in the 1998 Act to “a continued company” shall be construed as references to “a continued insurer”.

**8.** References in the 1998 Act to “Isle of Man company” shall be construed as references to “Isle of Man insurer”.

**9.** References in the 1998 Act to “offshore company” shall be construed as references to “offshore insurer”.

**10.** In each of the following provisions of the 1998 Act —

(a) section 2 (application for consent to be continued in the Island);

(b) section 3 (consent);

(c) section 8 (application for consent for discontinuance); and

(d) section 9 (grant of consent),

references to “the Financial Supervision Commission” shall be construed as references to “the Supervisor”.

## INSPECTION AND INVESTIGATION

*Inspection and investigation*

1. (1) The Supervisor may inspect the books, accounts and documents and investigate the transactions of —
- (a) an insurer or former insurer or an applicant for authorisation to carry on insurance business;
  - (b) a person who, on reasonable grounds, is suspected by the Supervisor of carrying on, or to have carried on, insurance business contrary to any provision of this Act;
  - (c) a person who appears to be carrying on, or to have carried on, insurance business;
  - (d) a registered insurance manager or former registered insurance manager or an applicant for such registration;
  - (e) a person who, on reasonable grounds, is suspected by the Supervisor of acting as, or holding such person out to be, an insurance manager otherwise than in accordance with section 23;
  - (f) a registered insurance intermediary or a former registered insurance intermediary or an applicant for such registration;
  - (g) a person who, on reasonable grounds, is suspected by the Supervisor of acting as, or holding such person out to be, an insurance intermediary otherwise than in accordance with section 24;
  - (h) a person whose registration or exemption from registration as an insurance intermediary has been cancelled, but only in respect of matters relating to the period when the person was a registered insurance intermediary or had the benefit of the exemption;
  - (i) any person specified in subparagraphs (a) to (f) of paragraph 5(2);
  - (j) any scheme or former scheme;
  - (k) any person who, in or from the Island, acts or has acted as the trustee or administrator of, or a professional adviser to, any scheme; or
  - (l) any other person whom the Supervisor has reason to believe has information that is relevant to the discharge of the Supervisor's functions under this Act or the Retirement Benefits Schemes Act 2000, [c.14]

if, on reasonable grounds, it appears to the Supervisor necessary for the performance of the Supervisor's or the Authority's functions under this Act or the Retirement Benefits Schemes Act 2000.

(2) The Supervisor shall have every such power of entry and access as may be necessary for the purposes of subparagraph (1), and the Supervisor may take possession of all such books, accounts and documents as, and for so long as, may be necessary for those purposes.

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(3) The Supervisor may take copies of all books, accounts and documents in the possession of the Supervisor for the purposes of an inspection and investigation under this paragraph.

(4) No person shall intentionally obstruct the Supervisor when acting in the execution of the powers of the Supervisor under subparagraphs (1), (2) or (3).

(5) The Supervisor shall exercise the Supervisor's right of entry and access under subparagraph (2) only during such hours as are reasonable in the circumstances.

[c.14] (6) In this paragraph, "scheme" has the meaning given by section 1(1)(a) of the Retirement Benefits Schemes Act 2000.

#### *Requests for information*

2. (1) The Supervisor may request any person specified in subparagraphs (a) to (l) of paragraph 1(1) ("the requested person") to provide the Supervisor with any information if, on reasonable grounds, it appears to the Supervisor necessary for the performance of the Supervisor's or the Authority's functions under this Act or the Retirement Benefits Schemes Act 2000 and may require such information to be verified in such manner as the Supervisor directs.

(2) The Supervisor may issue directions to a requested person to secure that effect is given to a request under subparagraph (1) and the directions shall include a statement of reasons for their issue.

(3) If the Supervisor has issued a direction under subparagraph (2) and the requested person has failed to furnish the information, the Supervisor may direct the actuary, auditor, insurance manager or banker (as the case requires) of that person to furnish such relevant information as is within their knowledge.

(4) No person shall fail to furnish information when directed to do so under subparagraph (2) or (3).

(5) In any criminal proceedings (except proceedings alleging contravention of subparagraph (4), section 52 of this Act or section 46 of the Retirement Benefits Schemes Act 2000 (false statements)), information furnished in response to a direction issued under subparagraph (2) or (3) may not be used in evidence against the person furnishing it.

#### *Attendance before the Supervisor: justice's authorisation*

3. (1) Where, on an application made by the Supervisor, a justice of the peace is satisfied that there is good reason to do so for the purpose of investigating the affairs, or any aspect of the affairs, of any requested person so far as is necessary for the performance of the Supervisor's or the Authority's functions under this Act or the Retirement Benefits Schemes Act 2000, the justice may by written instrument, authorise the Supervisor to exercise the powers under this paragraph and such powers shall not otherwise be exercisable.

(2) The Supervisor may by notice in writing, accompanied by a copy of the instrument issued by the justice of the peace under subparagraph (1), require the person whose affairs are to be investigated or any other person whom the Supervisor has reason to believe has relevant information to attend before the Supervisor at a specified time and place to answer questions or otherwise furnish information with respect to any matter relevant to the investigation.

(3) The Supervisor may by notice in writing, accompanied by a copy of the instrument issued by the justice of the peace under subparagraph (1), require any person to produce at a specified time and place any specified documents or copies of documents which appear to the Supervisor to relate to any matter relevant to the investigation or any documents of a specified class which appear to the Supervisor so to relate. SCH. 5

(4) If documents or copies of documents are not produced as required under subparagraph (3), the Supervisor may require the person who was required to produce them to state, to the best of that person's knowledge and belief, where they are.

(5) Where any documents are produced as required under subparagraph (3), the Supervisor may —

- (a) take possession of all such documents for so long as may be necessary;
- (b) take copies or extracts from them; or
- (c) require the person producing them to provide an explanation of any of them.

(6) No person shall without reasonable excuse fail to comply with a requirement imposed on that person under this paragraph.

(7) In any criminal proceedings (except proceedings alleging contravention of subparagraph (6), section 52 of this Act or section 46 of the Retirement Benefits Schemes Act 2000 (false statements)), a statement by a person in response to a requirement imposed under this paragraph may not be used in evidence against the person furnishing it.

#### *Deemster's search warrant*

4. (1) Where, on information on oath laid by the Supervisor, a Deemster is satisfied, in relation to any documents, that there are reasonable grounds for believing —

- (a) that —
  - (i) a person has failed to comply with an obligation under paragraph 2 or 3 to produce them or copies of them;
  - (ii) it is not practicable to serve a request or direction under paragraph 2 or a notice under paragraph 3(3) in relation to them; or
  - (iii) the service of such a request, direction or notice in relation to them might seriously prejudice the investigation; and
- (b) that they are on premises specified in the information,

the Deemster may issue such a warrant as is mentioned in subparagraph (2).

(2) The warrant referred to in subparagraph (1) is a warrant authorising any person named in the warrant —

- (a) to enter (using such force as is reasonably necessary for the purpose) and search the premises; and

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- (b) to take possession of any documents appearing to be documents of the description specified in the information, or to take in relation to any documents so appearing any other steps which may appear to be necessary for preserving them and preventing interference with them.

(3) If, during the course of a search of premises for documents of a description specified in the information, other documents are discovered which appear to contain evidence in relation to the functions of the Supervisor or the Authority under this Act or the Retirement Benefits Schemes Act 2000, the person named in the warrant may —

- (a) take possession of those documents; or
- (b) take in relation to them any other steps which may appear to be necessary for preserving them and preventing interference with them.

(4) A person executing a warrant issued under subparagraph (1) shall be accompanied by a constable.

*Paragraphs 1 to 4: supplementary*

5. (1) In paragraphs 2 to 4 and this paragraph, “requested person” means any person specified in subparagraphs (a) to (l) of paragraph 1(1).

(2) The persons referred to in paragraph 1(1)(i) are —

- (a) a director or controller of a person specified in subparagraphs (a) to (l) of paragraph 1(1) (“the person concerned”);
- (b) any associate or former associate of the person concerned;
- (c) any body corporate in the case of which a controller of the person concerned, either alone or with any associate or associates, is entitled to exercise, or control the exercise of, more than 50 per cent of the voting power at a general meeting;
- (d) any partnership of which the person concerned or its controller is or has at any relevant time been a member;
- (e) customers or former customers of the person concerned;
- (f) any other person with whom the person concerned has formed a business relationship whether or not that other person is carrying out a business.

(3) The powers under paragraphs 1 to 4 may be exercised in respect of a former insurer, former insurance manager, former insurance intermediary or former scheme, either —

- (a) in respect of, or in connection with, such transactions, matters or circumstances as occurred or existed when it was an insurer, insurance manager, insurance intermediary or scheme (as the case may be); or
- (b) in respect of, or in connection with, transactions, matters or circumstances that are connected with its former business.

(4) Paragraphs 1 to 4 do not oblige any person to disclose any information or items that are subject to legal privilege within the meaning of section 13 of the Police Powers and Procedures Act 1998. SCH. 5 [c.9]

(5) In paragraphs 1 to 4 every reference to the Supervisor shall include any person authorised by the Supervisor in writing for the purposes of those paragraphs and any person authorised by the Supervisor shall, in the exercise of any power under those paragraphs, produce that person's written appointment if required to do so.

(6) In paragraphs 1 to 4, "document" includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form.

(7) Where a person claims a lien on a document, its production under paragraphs 1 to 4 is without prejudice to the lien.

*Use of powers for the benefit of other authorities, etc*

**6.** (1) The powers conferred on the Supervisor by paragraphs 1 to 4 may be exercised for the purpose of —

- (a) enabling or assisting a recognised regulator to discharge its functions;
- (b) enabling or assisting the Department of Health and Social Security to discharge its functions in relation to occupational and personal pension schemes;
- (c) enabling or assisting the Treasury and the Assessor of Income Tax to discharge their functions in relation to income tax;
- (d) enabling or assisting a person or an authority (whether a governmental or private body) in a country or territory outside the Island —
  - (i) to exercise functions corresponding to any of those of the Authority or the Supervisor under this Act or any other enactment;
  - (ii) to exercise functions corresponding to any of those of the Financial Supervision Commission under any enactment; or
  - (iii) to exercise functions relating to financial crime;
- (e) any criminal proceedings whatever which have been or may be initiated, whether in the Island or elsewhere;
- (f) the initiation or bringing to an end of any such investigation or proceedings;
- (g) facilitating a determination of whether any such investigation or proceedings should be initiated or brought to an end; or
- (h) any criminal investigation whatever which is being or may be carried out, whether in the Island or elsewhere.

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(2) Subject to subparagraph (3), the powers conferred on the Supervisor by paragraphs 1 to 4 may be exercised for the purpose of enabling or assisting any public or other authority in the Island or elsewhere for the time being designated for the purposes of this section by an order made by the Treasury to discharge any functions which are specified in the order.

(3) An order under subparagraph (2) designating an authority for the purposes of that subparagraph may —

- (a) impose conditions subject to which the disclosure of information is permitted by that subsection;
- (b) require the imposition on the recipient of the information of conditions —
  - (i) precluding disclosure of the information by that person; or
  - (ii) limiting the use or disclosure of the information by that person; and
- (c) otherwise restrict the circumstances in which that subparagraph permits disclosure.

*Expenses of investigation*

7. (1) A person referred to in paragraph 1(1) shall, as required by the Supervisor, pay the whole or a proportion of any reasonable expenses incurred by the Supervisor or the Authority in respect of —

- (a) an inspection or investigation of that person; or
- (b) the exercise of any of the powers conferred by paragraphs 1 to 5 in respect of that person.

(2) The Supervisor may make a requirement under subparagraph (1) only if the Supervisor is of the opinion that the inspection, investigation or exercise was necessitated by the act or default of the person referred to in subparagraph (1).

(3) Any sums to be paid pursuant to a requirement under subparagraph (1) shall be recoverable by the Supervisor as a civil debt and shall be paid into and form part of the General Revenue of the Island.

## RESTRICTIONS ON DISCLOSURE OF INFORMATION

*Restrictions on disclosure of information*

1. (1) Subject to paragraph 2, information which is restricted information for the purposes of this paragraph and relates to the business or other affairs of any person shall not be disclosed by a person mentioned in subparagraph (3) (“the primary recipient”) or any person obtaining the information directly or indirectly from the primary recipient without the consent of the person from whom the primary recipient obtained the information and if different, the person to whom it relates.

(2) Subject to subparagraph (4), information is restricted information for the purposes of this paragraph if it is obtained by the primary recipient for the purposes of, or in the discharge of such person’s functions under, this Act or the Retirement Benefits Schemes Act 2000 or any public document made under this Act or the Retirement Benefits Schemes Act 2000 (whether or not by virtue of any requirement to supply it made under those provisions). [c.14]

(3) The persons mentioned in subparagraph (1) are —

- (a) the Treasury and its members;
- (b) the Authority and its members;
- (c) the Supervisor;
- (d) the Isle of Man Office of Fair Trading or a adjudicator to whom a dispute has been referred under Schedule 4 to the Financial Services Act 2008;
- (e) any body administering a scheme under section 43 (compensation schemes);
- (f) any person appointed or authorised to exercise any powers under section 34 of the Retirement Benefits Schemes Act 2000 (appointment of inspector);
- (g) any officer or servant of any of the persons referred to in subparagraphs (a) to (f).

(4) Information shall not be treated as restricted information for the purposes of this paragraph if it has been made available to the public by virtue of being disclosed in any circumstances in which or for any purpose for which disclosure is not precluded by this paragraph.

*Exceptions from restrictions on disclosure*

2. (1) Paragraph 1 does not preclude the disclosure of information —
- (a) for the purposes of any criminal proceedings whatever which have been or may be initiated, whether in the Island or elsewhere;
  - (b) for the purposes of the initiation or bringing to an end of any such investigation or proceedings;

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- (c) for the purpose of facilitating a determination of whether any such investigation or proceedings should be initiated or brought to an end;
- (d) for the purposes of any criminal investigation whatever which is being or may be carried out, whether in the Island or elsewhere;
- (e) with a view to the institution of or otherwise for the purposes of any civil proceedings arising under or by virtue of this Act or the Retirement Benefits Schemes Act 2000;
- (f) for the purpose of enabling or assisting the Authority, the Supervisor, the Financial Supervision Commission or the Treasury to discharge their respective functions under this Act or any other enactment;
- (g) in respect of a person who provides services to the Treasury, the Authority or the Supervisor in the discharge of their respective functions under this Act or the Retirement Benefits Schemes Act 2000, for the purpose of enabling or assisting that person to provide those services;
- (h) for the purpose of enabling or assisting the Isle of Man Office of Fair Trading to discharge its functions under Schedule 4 to the Financial Services Act 2008;
- (i) for the purpose of enabling or assisting any adjudicator appointed under Schedule 4 to the Financial Services Act 2008 to discharge such person's functions;
- (j) for the purpose of enabling or assisting the Department of Health and Social Security to discharge its functions in relation to occupational and personal pension schemes;
- (k) for the purpose of enabling or assisting the Assessor of Income Tax to discharge such person's functions under enactments relating to taxes;
- (l) for the purpose of enabling or assisting any inspector appointed under enactments relating to companies or insider dealing to discharge such person's functions;
- (m) for the purpose of enabling or assisting the body administering a compensation scheme under section 43 of this Act or section 25 of the Financial Services Act 2008 to discharge its functions under the scheme;
- (n) for the purpose of enabling or assisting an official receiver, a liquidator or a trustee in bankruptcy (in the Island) to discharge such person's functions under enactments relating to insolvency, bankruptcy or the winding up of companies;
- (o) for the purpose of the institution of, or otherwise for the purposes of, any disciplinary proceedings (whether in the Island or elsewhere) relating to the exercise of professional duties by a lawyer, auditor, accountant, valuer, estate agent or actuary;
- (p) for the purpose of enabling or assisting any person appointed or authorised to exercise any powers under section 34 of the Retirement Benefits Schemes Act 2000 to discharge such person's functions;

- (q) for the purpose of enabling or assisting any person appointed or authorised under paragraph 5(5) of Schedule 5 to this Act to discharge such person's functions; SCH. 6
- (r) for the purpose of enabling or assisting an auditor of an insurer, insurance manager, insurance intermediary, retirement benefits scheme or retirement benefits scheme administrator to discharge such person's functions;
- (s) if the information is or has been available to the public from other sources; or
- (t) in a summary or collection of information framed in such a way as not to enable the identity of any person to whom the information relates to be ascertained.
- (2) Paragraph 1 shall not preclude the disclosure of information —
- (a) to a recognised regulator; or
- (b) for the purpose of enabling or assisting a person or an authority (whether a governmental or private body) in a country or territory outside the Island —
- (i) to exercise functions in connection with rules of law corresponding to the enactments relating to insider dealing;
- (ii) to exercise functions corresponding to any of those of the Authority or the Supervisor under this Act or any other enactment;
- (iii) to exercise functions corresponding to any of those of the Financial Supervision Commission under any enactment.
- (3) In subparagraph (2), "recognised regulator" means a person or an authority (whether a governmental or private body) and whether in the Island or in a country or territory outside the Island exercising, whether by law or by the rules of the body —
- (a) functions corresponding to the Authority or the Supervisor, under this Act or any other enactment; or
- (b) functions corresponding to the Financial Supervision Commission under any enactment; or
- (c) functions which include the supervision —
- (i) of persons carrying on business in the financial services industry, or in similar businesses; or
- (ii) of the markets in which such persons may carry on such business; or
- (iii) of the corporate and trust services industry.
- (4) Subject to subparagraph (5), paragraph 1 shall not preclude the disclosure of information for the purpose of enabling or assisting any public or

SCH. 6 other authority in the Island or elsewhere for the time being designated for the purposes of this paragraph by an order made by the Treasury to discharge any functions which are specified in the order.

(5) An order under subparagraph (4) designating an authority for the purposes of that subparagraph may —

- (a) impose conditions subject to which the disclosure of information is permitted by that subparagraph;
- (b) require the imposition on the recipient of the information of conditions —
  - (i) precluding disclosure of the information by that person; or
  - (ii) limiting the use or disclosure of the information by that person; and
- (c) otherwise restrict the circumstances in which that subparagraph permits disclosure.

(6) Paragraph 1 shall not preclude the disclosure —

- (a) of any information contained in any notice or copy of a notice served under this Act or the Retirement Benefits Schemes Act 2000, notice of the contents of which has been given to the public, by the person on whom it was served or any person obtaining the information directly or indirectly from that person;
- (b) of any information contained in any register required to be kept under this Act or the Retirement Benefits Schemes Act 2000.

(7) No disclosure of information shall be made under this paragraph unless the person making the disclosure is satisfied that the making of the disclosure is proportionate to what is sought to be achieved by it.

(8) The information that may be disclosed under this paragraph includes information obtained before the commencement of this paragraph.

(9) In this paragraph —

- (a) “Supervisor” includes the Supervisor under the Retirement Benefits Schemes Act 2000; and
- (b) “the Authority” includes the IPA under the Retirement Benefits Schemes Act 2000.

## MATTERS IN RESPECT OF WHICH REGULATIONS MAY BE MADE

*General*

1. Anything which, under this Act, is required to be, or may be prescribed or which may be provided for by regulations.
2. The exemption from any provision of this Act of any specified person or class of persons.
3. The restriction of specified business practices.
4. Arrangements for the settlement of disputes.
5. The giving of notice to the Supervisor and such other persons as may be specified in the regulations of the occurrence of such events as may be specified in the regulations.
6. The creation of offences for contravention of any provision of regulations made under this Act.
7. Purposes connected with or incidental to any of the matters specified in this Schedule.

*Insurers, insurance managers and insurance intermediaries*

8. The application of this Act to any insurer, insurance manager or insurance intermediary with such exceptions, adaptations and modifications as may be specified.
9. Provisions prohibiting or restricting the issue or transfer of any share in an insurer, insurance manager or insurance intermediary or any interest in such a share, to any specified person or class of persons.
10. Provisions restricting an insurer, insurance manager or insurance intermediary (or any subsidiary of, or company associated with, any such person) from entering into transactions of any specified description with any other person of any specified class or description.
11. The form and contents of advertisements by insurers, insurance managers and insurance intermediaries (including matters which must be, as well as matters which may not be, included in advertisements).
12. The financial resources of insurers, insurance managers and insurance intermediaries.

- SCH. 7
- 13.** The assets, liabilities and other matters to be taken into account in determining the financial resources of an insurer, insurance manager or insurance intermediary for the purposes of this Act and regulations under it.
- 14.** The form and content of any information required to be produced by insurers, insurance managers and insurance intermediaries to the Supervisor.
- 15.** Financial statements and returns which are to be submitted to the Supervisor by insurers, insurance managers and insurance intermediaries.
- 16.** The display of notices and the provision of information about the affairs of insurers, insurance managers and insurance intermediaries to the public at offices and places of business of such persons.
- 17.** Requirements that insurers, insurance managers and insurance intermediaries (and their officers, auditors or actuaries) shall comply with such codes, guidance notes or standards as are from time to time in force and made or issued by the Authority or any other person or authority whether within or outside the Island.
- 18.** The respective functions of the board of directors, individual directors and chief executives of insurers, insurance managers and insurance intermediaries in respect of the administration and management of their businesses.
- 19.** Provisions requiring the establishment and maintenance of strategic objectives by the boards of directors of insurers, insurance managers and insurance intermediaries.

*Insurers only*

- 20.** (1) The preparation, form and content of the annual accounts of an authorised insurer.
- (2) The preparation, form and content of statements, reports and information to be annexed to annual accounts.
- (3) The modification of —
- [VIII p.327] (a) section 30 of the Partnership Act 1909;
- [c.2] (b) Part I of, and Schedule 1 to, the Companies Act 1982;
- [c.19] (c) section 19 of the Limited Liability Companies Act 1996; or
- [c.13] (d) section 80 of the Companies Act 2006,
- in their application to authorised insurers.
- (4) The exemption of authorised insurers from any of the provisions referred to in subparagraph (3).

(5) Provisions restricting the appointment of auditors to persons who have effected indemnity insurance of such type and amount as may be specified. SCH. 7

**21.** The determination of the value of assets and the amount of liabilities for the purposes of the calculation of margins of solvency under this Act and regulations made in exercise of this power may provide that, for any specified purpose, assets or liabilities of any specified class or description shall be left out of account or shall be taken into account only to a specified extent.

**22.** Provisions requiring authorised insurers —

- (a) to set aside reserves of such amount and in such manner and circumstances as may be specified;
- (b) to deal with and apply such reserves in such manner as may be specified;
- (c) not to distribute assets to members except to such extent, and in such manner and circumstances as may be specified.

**23.** The prescription of classes or categories of insurance business for any purpose of this Act or regulations.

**24.** The location, form and content of accounting and other records to be kept and maintained by an insurer.

**25.** Provisions with respect to the carrying on of insurance business carried on by insurers.

**26.** The supply of information to customers at such time or times as is prescribed about services and policies supplied by insurers, their terms of business (including fees, charges or commission) and their complaints procedures.

**27.** Provisions requiring the inclusion of terms in contracts of insurance —

- (a) giving customers rights to cancel contracts at such time and in accordance with such conditions as are prescribed; and
- (b) where a contract is cancelled under subparagraph (a), giving customers rights to refunds of such amount or calculated in such manner as is prescribed.

**28.** Provisions requiring the establishment and maintenance by insurers of internal controls in respect of the administration and management of their insurance businesses.

**29.** Provisions relating to the prevention and detection of money laundering in connection with the carrying on of insurance business.

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**30.** Regulations may contain requirements which take into account, in the case of an authorised insurer who is a member of a group, any activity of another member of the group.

**31.** Provisions in respect of contracts entered into by an insurer in the course of carrying on insurance business.

**32.** For the purpose of preventing a company that is not an authorised insurer but which is a holding company of an authorised insurer from doing anything to lessen the effectiveness of assets or the identification of assets maintained by the insurer in respect of any particular aspect of its business and in particular may include provision —

- (a) prohibiting the payment of dividends;
- (b) prohibiting the creation of charges;
- (c) making charges created in contravention of the regulations void.

*Insurance managers and insurance intermediaries only*

**33.** (1) Provisions requiring insurance managers and insurance intermediaries to effect a bond, in a specified form, to such value, in respect of such events and for the benefit of such persons as the regulations may specify.

- (2) Provisions requiring that —
  - (a) arrangements in relation to the bond shall be entered into only with persons specified in the regulations;
  - (b) bonds shall be in such form and valid for such minimum period as may be specified in the regulations;
  - (c) a copy of the bond shall be displayed, for the information of the public, in a prominent position in all premises occupied by an insurance manager or insurance intermediary in which it carries on business as an insurance manager or insurance intermediary (as the case may be).

**34.** Provisions concerning —

- (a) the keeping of accounts and other records by insurance managers and insurance intermediaries, their form, content, inspection, audit and submission to the Authority and the Supervisor;
- (b) the treatment to be afforded to money received by insurance managers and insurance intermediaries.

**35.** Provision for the disclosure of the amount or value, or of arrangements for the payment or provision, of commissions or other inducements in connection with the businesses of insurance intermediaries and the matters by reference to which or the manner in which their amount or value may be determined.

**36.** Provision requiring insurance managers and insurance intermediaries to comply with such rules, regulations, codes or standards as are from time to time in force and made or issued by any authority or professional organisation (whether established in the Island or elsewhere) which regulates, or prescribes standards which relate to, — SCH. 7

- (a) insurance managers or insurance intermediaries (as the case may be);  
or
- (b) the practice of any profession.

## Section 56

## SCHEDULE 8

## AMENDMENT OF ENACTMENTS

*Companies Act 1931 (XIII p.235)*

1. In section 152, after subsection (1) insert —

“(1A) Where an application made to the court under this section relates to a company which is an insurer within the meaning of the Insurance Act 2008 —

- (a) the Insurance and Pensions Supervisor; and
- (b) any person who alleges that such person would be adversely affected by the carrying out of the compromise or arrangement,

shall be entitled to be heard.”.

*Income Tax Act 1970 (XXI p.260)*

2. In section 31C(4) —

- (a) in the definition of “compensation scheme”, after “section 25 of the Financial Services Act 2008” insert “or section 43 of the Insurance Act 2008”;
- (b) in the definition of “fund”, for “section 25 of that Act” substitute “section 25 of the Financial Services Act 2008 or section 43 of the Insurance Act 2008”.

3. In section 48D(3)(a), for “Insurance Act 1986” substitute “Insurance Act 2008”.

*Companies Act 1982 (c.2)*

4. In section 10A(2) —

- (a) for “section 13 of the Insurance Act 1986” substitute “section 18 of the Insurance Act 2008”;
- (b) for “section 34 of the Act of 1986” substitute “section 54 of the Act of 2008”.

5. In section 17A(3), for “section 6 of the Insurance Act 1986” substitute “section 8 of the Insurance Act 2008”.

*Legal Aid Act 1986 (c.23)*

6. After paragraph 5C of Part I of Schedule 1 insert —

**“5D.** Proceedings before the Retirement Benefits Schemes Tribunal under section 38 of the Retirement Benefits Schemes Act 2000 or before the Insurance Tribunal under section 45 of the Insurance Act 2008 which shall be proceedings in a court for the purposes of this Act.” SCH. 8

*Financial Supervision Act 1988 (c.16)*

7. In section 21A(7)(d), for “Insurance Act 1986” substitute “Insurance Act 2008”.
8. In section 24(1)(f), for “Insurance Act 1986” substitute “Insurance Act 2008”.
9. In section 24(5)(b)(ii), for “Insurance Act 1986” substitute “Insurance Act 2008”.
10. In section 31(5), for “Insurance Act 1986” substitute “Insurance Act 2008”.

*Moneylenders Act 1991 (c.6)*

11. In section 18, in the definition of “exempt person” in paragraph (f), for “Insurance Act 1986” substitute “Insurance Act 2008”.

*Consumer Protection Act 1991 (c.11)*

12. In section 57N(1), in the definition of “financial services” , for “Insurance Act 1986” substitute “Insurance Act 2008”.

*Life Assurance (Compensation of Policyholders) Regulations 1991  
(G.C. 48/91)*

13. In regulation 2(1), in the definition of “authorised insurer”, for “section 6 of the Insurance Act 1986” substitute “section 8 of the Insurance Act 2008”.
14. In regulation 2(2)(b), for “section 17(6) of the Insurance Act 1986” substitute “section 13(7) of the Insurance Act 2008”.
15. In regulation 3(1), for “section 21 of the Act” substitute “section 43 of the Insurance Act 2008”.

*Companies Act 1992 (c.4)*

16. In section 26(3)(c)(i), for “Insurance Act 1986” substitute “Insurance Act 2008”.

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*Access to Health Records and Reports Act 1993 (c.10)*

17. In paragraph 1(1) of the Schedule in the definition of “insurance purposes”, for “Insurance Act 1986” substitute “Insurance Act 2008”.

*Credit Unions Act 1993 (c.19)*

18. In section 15(2)(d), for “Insurance Act 1986” substitute “Insurance Act 2008”.

19. In section 16(1)(a), for “Insurance Act 1986” substitute “Insurance Act 2008”.

*Companies (Transfer of Domicile) Act 1998 (c.6)*

20. In section 1(1)(b)(ii), for “section 34 of the Insurance Act 1986” substitute “section 54 of the Insurance Act 2008”.

21. In section 7(1)(b)(ii), for “section 6 of the Insurance Act 1986” substitute “section 8 of the Insurance Act 2008”.

*Corporate Service Providers Act 2000 (c.13)*

22. In paragraph 6(d) of Part I of Schedule 2, for “Insurance Act 1986” substitute “Insurance Act 2008”.

23. In paragraph 6(e) of Part I of Schedule 2, for “registered under the Insurance Intermediaries (General Business) Act 1996” substitute “an insurance intermediary registered under section 25 of the Insurance Act 2008”.

24. In paragraph 6(fa) of Part I of Schedule 2, for “section 27 of the Insurance Act 1986” substitute “section 25 of the Insurance Act 2008”.

25. In paragraph 13(b) of Part I of Schedule 2, for “section 27 of the Insurance Act 1986” substitute “section 25 of the Insurance Act 2008”.

26. In paragraph 14(1) of Part I of Schedule 2 —

(a) in item (d), for “section 27 of the Insurance Act 1986” substitute “section 25 of the Insurance Act 2008”;

(b) in item (f), for “section 6 of the Insurance Act 1986” substitute “section 8 of the Insurance Act 2008” and for “section 25 of that Act” substitute “section 22 of that Act”.

27. In paragraph 10(1) of Part IA of Schedule 2 —

(a) in item (d), for “section 27 of the Insurance Act 1986” substitute “section 25 of the Insurance Act 2008”;

- (b) in item (e), for “section 6 of the Insurance Act 1986” substitute “section 8 of the Insurance Act 2008” and for “section 25 of that Act” substitute “section 22 of that Act”. SCH. 8

*Retirement Benefits Schemes Act 2000 (c.14)*

**28.** In section 4(1)(c)(ii), for “Insurance Act 1986” substitute “Insurance Act 2008”.

**29.** In section 22(1)(b)(ii), for “Insurance Act 1986” substitute “Insurance Act 2008”.

**30.** For section 26, substitute —

“Inspection and investigation **26.** Schedule 5 to the Insurance Act 2008 shall have effect in relation to the inspection and investigation powers of the Supervisor.”

**31.** In section 31(1)(c)(ii), for “Insurance Act 1986” substitute “Insurance Act 2008”.

**32.** In section 31(4)(b)(ii), for “Insurance Act 1986” substitute “Insurance Act 2008”.

**33.** In section 31(4)(c), for “Insurance Act 1986” substitute “Insurance Act 2008”.

**34.** After section 37, insert —

“Regulatory objectives **37A.** Sections 1 and 2 of the Insurance Act 2008 shall apply in respect of the exercise by the Authority and the Supervisor of functions under this Act as they apply in respect of functions under that Act, and the references in that Act to “policyholder”, “insurance industry”, “insurance business” and “insurers” shall be construed accordingly.”

1986/24/  
2A(3)

**35.** For section 38 substitute —

“Appeals to the Retirement Benefits Schemes Tribunal **38.** (1) For the purposes of this Act there shall be a tribunal known as the Retirement Benefits Schemes Tribunal (in this Act referred to as “the Tribunal”).

(2) The Tribunal shall consist of —

(a) a chairman appointed in accordance with the Tribunals Act 2006; and

(b) 2 members selected in accordance with regulations made under section 9(b) of the Tribunals Act 2006 from a panel appointed in accordance with that Act.

(3) Any person who is aggrieved by a decision of the Supervisor to —

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- (a) refuse to register a scheme under section 3;
- (b) register a scheme subject to conditions under section 3(3);
- (c) make an authorisation subject to new conditions under section 3(3)(a);
- (d) vary any existing conditions under section 3(3)(b);
- (e) revoke an authorisation under section 4;
- (f) refuse to extend (or further extend) a period under section 9(7), 13(7) or 14(5);
- (g) issue a direction under section 14(2);
- (h) refuse to give approval under section 18(3);
- (i) issue a direction under section 19(1) or (2);
- (j) vary or revoke a consent under section 19(4)(b) or (c);
- (k) issue a direction under section 22(1);
- (l) issue a notice or direction under section 23(2) or (3);
- (m) issue a direction under section 31;
- (n) refuse to withdraw or vary a direction under section 31(1);
- (o) refuse to register an administrator under section 36(4)(a);
- (p) cancel the registration of an administrator under section 36(4)(b);
- (q) disqualify a person under section 41; or
- (r) refuse to revoke a disqualification order under section 41,

may appeal, in accordance with rules made under section 8 of the Tribunals Act 2006, to the Tribunal.

(4) On the determination of an appeal under this section the Tribunal shall confirm, vary or revoke the decision in question.

(5) Any variation or revocation of a decision shall not affect the previous operation of that decision or anything duly done or suffered under it.

(6) Without prejudice to subsection (7), any decision of the Tribunal on an appeal under this section shall be binding on the Supervisor and the applicant.

(7) An appeal shall lie to the High Court, in accordance with rules of court, on a question of law from any decision of the Tribunal.”.

36. For section 43, substitute —

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“Restrictions on disclosure of information”  
43. Schedule 6 to the Insurance Act 2008 shall have effect in relation to the restrictions on disclosure of information.”

*Online Gambling Regulation Act 2001 (c.10)*

37. In section 3(1)(e), for “Insurance Act 1986” substitute “Insurance Act 2008”.

*Trustee Act 2001 (c.18)*

38. In section 36(7)(b), for “section 34 of the Insurance Act 1986” substitute “section 54 of the Insurance Act 2008”.

*Data Protection Act 2002 (c.2)*

39. In paragraph 14(2)(a) of Schedule 3, for “section 34 of the Insurance Act 1986” substitute “section 54 of the Insurance Act 2008”.

40. In paragraph 15(b)(i) of Schedule 3, for “section 34 of the Insurance Act 1986” substitute “section 54 of the Insurance Act 2008”.

*Anti-Terrorism and Crime Act 2003 (c.6)*

41. In paragraph 1 of Part 1 of Schedule 1, in item (i) for “Insurance Act 1986” substitute “Insurance Act 2008”.

42. In paragraph 16(6)(a) of Part 5 of Schedule 3, for “section 28B(3) of the Insurance Act 1986” substitute “section 39(3) of the Insurance Act 2008”.

43. In paragraph 1 of Schedule 4, in the definition of “financial institution” in item (i), for “Insurance Act 1986” substitute “Insurance Act 2008”.

44. In paragraph 6(1) of Schedule 6, in the definition of “financial institution” in item (i), for “Insurance Act 1986” substitute “Insurance Act 2008”.

*Protected Cell Companies Act 2004 (c.1)*

45. In section 5(3)(a), for “Insurance Act 1986” substitute “Insurance Act 2008”.

46. In section 31(2)(f), for “Schedule 3A to the Insurance Act 1986” substitute “Schedule 4 to the Insurance Act 2008”.

*Insurance (Amendment) Act 2004 (c.3)*

47. For section 26(1) substitute —

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“(1) This Act may be cited as the Life Assurance (Insurable Interest) Act 2004.”.

*Tribunals Act 2006 (c.1)*

**48.** For paragraph 6 of Part 2 of Schedule 2 substitute —

“**6.** The Retirement Benefits Schemes Tribunal established under section 38 of the Retirement Benefits Schemes Act 2000.”.

**49.** After paragraph 7 of Part 2 of Schedule 2 insert —

“**8.** The Insurance Tribunal established under section 45 of the Insurance Act 2008.”.

*Insurance Companies (Amalgamations) Act 2006 (c.11)*

**50.** In section 1(2), for “Insurance Act 1986” substitute “Insurance Act 2008”.

**51.** In section 3, in the definition of “insurance company”, for “Insurance Act 1986” substitute “Insurance Act 2008”.

*Financial Services Act 2008*

**52.** In paragraph 2(1)(g) and 2(5)(b)(ii) of Schedule 5, for “Insurance Act 1986” substitute “Insurance Act 2008”.

## Section 57

## SCHEDULE 9

## REPEAL OF ENACTMENTS

<i>Reference</i>	<i>Short Title</i>	<i>Extent of repeal</i>
XIII p.235	Companies Act 1931	Section 130 and the Seventh Schedule.
1986 c.24	Insurance Act 1986	The whole Act.
1988 c.16	Financial Supervision Act 1988	Section 21(1)(c).  In Schedule 2, entries 11 and 12 and the cross-heading.
1990 c.3	Council of Ministers Act 1990	Paragraph 13 of Schedule 1 and the cross-heading.  The entry in Schedule 2 relating to the Insurance Act 1986.
1992 c.4	Companies Act 1992	In section 26(3)(c)(i) the words “or the Insurance Intermediaries (General Business) Act 1996”.
1993 c.13	Insurance (Amendment) Act 1993	The whole Act.
1995 c.6	Insurance (Amendment) Act 1995	The whole Act.
1996 c.4	Insurance Intermediaries (General Business) Act 1996	The whole Act.
2000 c.3	Companies (Transfer of Functions) Act 2000	Paragraph 34 of Schedule 1 and the cross-heading.  Paragraph 32 of Schedule 2 and the cross-heading.
2000 c.14	Retirement Benefits Schemes Act 2000	Sections 25, 27, 28, 37, 40 and 44.  In section 54, the definition of “Review Committee”.  Schedule 1.  Paragraphs 2 to 7 of Schedule 2 and the cross-heading relating to those paragraphs.  The entry in Schedule 3 relating to the Insurance Act 1986.

SCH. 9	2003 c.6	Anti-Terrorism and Crime Act 2003	The reference in Schedule 10 to “the Insurance Intermediaries (General Business) Act 1996”.
	2004 c.3	Insurance (Amendment) Act 2004	Parts 1, 3, 4, 5 and sections 24 and 25(2).  Schedule 1.
	2006 c.8	Income Tax (Corporate Taxpayers) Act 2006	The entry in the Schedule relating to the Insurance Act 1986.
	2006 c.11	Insurance Companies (Amalgamations) Act 2006	Section 2.
	2008 c. ?	Financial Services Act 2008	The reference in paragraph 2(1)(g) and 2(5)(b)(ii) of Schedule 5 to “the Insurance Intermediaries (General Business) Act 1996”.

## SAVING AND TRANSITIONAL PROVISIONS

- 1.** The Life Assurance (Compensation of Policyholders) Regulations 1991 (G.C. 48/91) continue to have effect notwithstanding the repeal of section 21(1)(c) of the Financial Supervision Act 1988. [c.16]
  
- 2.** This Schedule is without prejudice to the operation of section 16 of the Interpretation Act 1976 (which relates to the effect of substituting provisions). [c.20]