The State Law and Order Restoration Council

The insurance Business Law

(The State law and Order Restorations Council Law No.6/96)

The 9th Waxing Day of 1st Waso, 1358 M.E.

(24th June, 1996)

The State Law and Order Restoration Council hereby enacts the following Law:-

Chapter I
Title and Definition

1. This Law shall be called the Insurance Business Law.

2. The following expressions contained in this Law shall have the meanings given hereunder:-

(a) Insurance Business means the insurance business permitted to be transacted under section 8 of this Law;

(b) insurer means a company which transacts insurance business;

(c) Underwriting Agent means a company which has the right to underwrite on behalf of the insurer;

(d) Insurance Broker means an intermediate company which makes contact with the insurer in the interest of the insured in effecting insurance;

(e) Company means a company which has been constituted under the Myanmar Companies Act or the Special Companies Act, 1950;

(f) Ministry means the Ministry of Finance and Revenue;

(g) Supervisory Board means the Insurance Business Supervisory Board formed under section 4 of this Law.

Chapter II
Objectives

3. The objectives of this Law are as follows:-

(a) to contribute towards the development of the system of market economy of the State;

(b) to develop foreign and local investments;

(c) to pave the way for insurance business, underwriting agency business or insurance broking business in the private sector;

(d) to win the trust and confidence of the people in the insurance system by providing the various insurance coverage which may be required in accordance with the all round development of the State;

(e) to cause the technology and business of insurance to thrive and be outstanding.

Chapter III
Formation of the Insurance Business Supervisory Board

4. The Ministry-

(a) shall form the Insurance Business Supervisory Board comprising the following persons:-

(1) a person assigned by the Ministry Chairman

(2) a representative from the Central Bank of Myanmar Member

(3) a representative from the Office of the Attorney General Member

(4) a representative from the Office of the Auditor General Member

(5) a representative from the Directorate of Investment and Company Administration Member

(6) suitable citizen insurance experts Member

(7) an officer from Myanmar Insurance Secretary

(b) may, if necessary, determine the Vice-Chairman and Joint- Secretary in forming the Supervisory Board.

5. Members of the Supervisory Board who are non-Government servants are entitled to receive remuneration prescribed by the Ministry.

6. The Myanmar Insurance shall-

(a) bear the expenses of the Supervisory Board;

(b) perform the office work of the Supervisory Board.

Chapter IV
Duties and Powers of the Supervisory Board

7. The duties and powers of the Supervisory Board are as follows:-

(a) scrutinizing and giving decision on applications for business licence of insurer, underwriting agent or insurance broker;

(b) determining, with the approval of the Ministry the amount of paid-up capital to be maintained by the insurer or the underwriting agent according to the type of insurance;

(c) determining the principles upon which evaluation of assets and liabilities of insurer and underwriting agent is to be based;

(d) determining the limit of investment for any insurance fund

(e) determining the deposit, licence fees and annual fees to be paid by the insurer, underwriting agent or insurance broker;

(f) allowing direct insurance to be effected abroad for insurance business which are not accepted by the insurers within the State;

(g) if necessary, establishing a fund for the protection of life assurance policy-holders an causing action to be taken by other appropriate means

(h) employing any local or foreign expert with the permission of the Ministry for assistance in carrying out its work

(i) when the insurance business is abolished, apportioning the deposit made by the insurer to any insurance fund of the person whose business is abolished in such manner and in such proportion as it deems appropriate.

(j) training, disseminating knowledge and communicating with international insurance organization in order to cause the technology and business of insurance to thrive and be outstanding.

Chapter V
Application for Business Licence and Granting Thereof

8. A company desirous of transacting one or more of the following insurance business shall apply for business licence to the Supervisory Board in accordance with the stipulations:-
(a) Life Assurance;

(b) Fire Insurance;

(c) Comprehensive Motor Insurance;

(d) Cash-in-transit Insurance;

(e) Cash-in-safe Insurance;

(f) Fidelity Insurance;

(g) Types of insurance permitted by the Ministry from time to time, by notification, with the approval of the Government.

9. A company desirous of acting as underwriting agent or insurance broker shall apply for business licence to the Supervisory Board in accordance with the stipulations.

10. The Supervisory Board may-
(a) after scrutinizing in accordance with the stipulations, the application submitted under section 8 or section 9, grant or refuse the business licence;

(b) ask for and examine documents in scrutinizing the application for business licence.

Chapter VI
Duties of the Insurer, Underwriting Agent or Insurance Broker

11. The insurer, underwriting agent or insurance broker shall:-
(a) abide by the provisions of this Law, rules, procedures, orders and directives made hereunder.

(b) abide by the relevant conditions of the business licence

(c) not transfer his business licence.

(d) maintain account books and records which indicate clearly his performance and financial standing to enable systematic and easy auditing;

(e) audit annual statements yearly, according to the financial year;

(f) if the business licence is cancelled, maintain the assets owned to the amount equivalent to the liabilities thereof within Myanmar;

(g) not open any branch office of insurance business without the permission of the Supervisory Board.

12. If the insurer or underwriting agent transacts insurance business he-
(a) shall cause an actuary to calculate and determine life assurance premium rates.

(b) shall invest only to the amount proposed by the actuary out of the fund of life assurance;

(c) shall cause an actuary to evaluate the life assurance business at least once in every 4 years and submit the report thereof to the Supervisory Board in accordance with the stipulations;

(d) shall reevaluate with another actuary if directed by the Supervisory Board when the report submitted under sub-section (c) is deemed unacceptable or is believed to be detrimental to the interests of the insured;

(e) if there is a surplus in evaluation by the actuary, may draw it out unless it is contrary to any existing law or any contract. However such draw-out shall not exceed one-fourth of the amount designated as profit for insurance policy-holders;

(f) shall pay death claim only to the beneficiary in accordance with the conditions of the life assurance policy. If the beneficiary is a minor, it shall be paid to his natural parents or adoptive parents or lawful guardian;

(g) in case where the beneficiary dies before the assured and the assured has not re-transferred the title of benefits, shall pay the death claim
in the following order:-

(1) husband or wife

(2) children;

(3) grandchildren;

(4) brothers and sisters;

(5) parents

13. The insurer or underwriting agent shall-
(a) submit programmes of reinsurance to the Supervisory Board;

(b) not revise without permission of the Supervisory Board, surrender value of life assurance paid-up value loans and interest rates and commission rates which were approved by the Supervisory Board;

(c) collect only according to the premium rate which was approved by the Supervisory Board;

(d) carry out the arrangement of investment only with the approval of the Supervisory Board;

(e) maintain supporting documents of assets of any insurance fund within the State and submit to the Supervisory Board on how they have been maintained. The maximum value of assets shall be as determined according to the type of insurance by the Supervisory Board;

(f) establish a main fund according to the type of relevant general insurance business. Such fund shall be utilized only for liabilities and expenses relating to the relevant type of insurance business;

(g) If the Supervisory Board directs to establish any other funds according to the relevant type of general insurance, in addition to the main fund mentioned in sub-section(f), comply as so directed;

(h) in abolishing the insurance business, first replenish the remaining fund after payment of all liabilities and expenses into other diminishing insurance funds;

(i) have the right to draw surplus amount of other insurance funds with the permission of the Supervisory Board;

(j) apportion its assets to all policy-holders if adjudicated an insolvent or if unable to meet liabilities. The liability to pay the policy-holders shall have priority over other liabilities except preferential payments mentioned in section 230 of the Myanmar Companies Act.

Chapter VII
Audit

14. The insurer or underwriting agent or insurance broker shall only allow an auditor who has obtained the certificate of a practising accountant issued by the Myanmar Accountancy Council and approved by the Supervisory Board to audit his financial statements including accounts and records.

15. If the Supervisory Board, under business requirement directs the auditor to carry out an extended auditing and investigation, he shall comply with such directive.

16. During the course of auditing, if any one of the following facts is discovered the relevant auditor shall report to the Supervisory Board immediately:-
(a) violation of or failure, to comply with any provisions of this Law;

(b) discovery of any act or circumstance that may affect the sufficiency of insurance fund;

(c) carrying on irregularities including acts detrimental to the interests of the insured;

(d) being unable to meet liabilities.

Chapter VIII
Cancellation of Business Licence

17. If the Supervisory Board finds that the insurer or underwriting agent or insurance broker has infringed any of the following facts, the Supervisory Board may cancel the business licence:-
(a) commencing business without paid-up capital determined according to the type of business;

(b) not commencing business within twelve months after obtaining the business licence;

(c) discontinuing to operate the relevant type of business;

(d) being adjudicated an insolvent;

(e) operating business in a manner detrimental to the interests of policyholders;

(f) being unable to continue to meet liabilities;

(g) violation of or failure to comply with the provisions of this Law by himself or by one of his administrative officers;

(h) sending incorrect, inaccurate, ambiguous or fraudulent data to the Supervisory Board;

(i) failure to disclose or concealment of material facts in applying for business licence;

(j) failure to effect adequate reinsurance in a case where reinsurance is required.

Chapter IX
Liquidation

18. If the business licence of the insurer, underwriting agent or insurance broker has been cancelled, the person assigned by the Supervisory Board shall apply to the Court of competent jurisdiction to pass an order for liquidation of relevant company in accordance with the provisions of the Myanmar Companies Act.

19. When the Court receives the application under section 18, it shall without considering any objections whatsoever submitted pass an order to liquidate the said company and proceed in accordance with the provisions of the Myanmar Companies Act.

20. In the process of liquidation of the company under section 18 and section 19 or in the process of liquidation under the provisions of Myanmar Companies Act, the liability to pay the policy-holders

shall be given priority over other liabilities except the preferential payments mentioned in section 230 of the Myanmar Companies Act.

Chapter X
Taking Administrative Action

21. (a) If the insurer or underwriting agent:-

(i) fails to maintain the net assets of any insurance find in accordance with the stipulations or

(ii) fails to submit, conceals or misrepresents the facts which the Supervisory Board asked for in connection with his share in accordance with this Law, or

(b) if the insurer or underwriting agent or insurance broker:-

(i) fails to maintain the account books and records which indicate clearly his performance and financial standing systematically and for easy auditing purpose, or

(ii) fails to audit annual statements compiled for the respective financial year annually, or

(iii) fails to submit the annual statements and other accounts compiled in accordance with the stipulation to the Supervisory Board within four months after the close of the relevant financial year, or

(iv) utilizes and distributes the form, policy or advertisement of insurance business not approved or not permitted for use by the Supervisory Board or uses after altering the approved form, policy or advertisement, administrative action shall be taken against him.

22. The Supervisory Board may pass any of the following orders on the person against whom administrative action is taken
(a) causing fine to be paid

(b) temporary suspension of the business operated under the business licence

(c) permitting the business to be continued after causing fine to be paid.

(d) cancellation of the business licence.

(e) informing the Ministry concerned to enter the company on the black list.

23. Any person dissatisfied with the order of administrative action passed by the Supervisory Board may appeal to the Ministry within thirty days from the date of passing the order.

24. The decision of the Ministry shall be final and conclusive.

Chapter XI
Offences and Penalties

25. Whoever operates as an insurer or an underwriting agent without a business licence shall on conviction, be punished with imprisonment for a term which may extend to 5 years, or with fine which may extend to kyats 500,000 or with both.

26. Whoever operates as an insurance broker without a business licence shall, on conviction be punished with imprisonment for a term which may extend to 3 years or with fine which may extend to kyats 300,000 or with both.

27. If a responsible person from a company which operates the business of insurance or underwriting agency or insurance broking intentionally refuses the inspection of the Supervisory Board in

accordance with this Law or does not allow the inspection of the books, accounts, records and documents, or destroys them in any manner, he shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to kyats 100,000 or with both.

28. If a responsible person from the company which operates the business of insurance or underwriting agency or insurance broking fails to submit the documents , reports statistics or books asked for by the Supervisory Board he shall, on conviction, be punished with fine which may extend to kyats 10,000.

Chapter XII
Miscellaneous

29. The Ministry may with the approval of the Government grant permission to a company which wishes to operate the business of insurance underwriting agency or insurance broking with foreign investment.

30. Notwithstanding anything contained in any existing law, the investor or economic enterprise which operates with the permission of the Myanmar Investment Commission shall have the right to effect the types of insurance transacted by the insurer or the underwriting agent.

31. The insurer or underwriting agent who holds a Foreign Exchange Acceptor and Holder Licence issued by the Myanmar Central Bank, may transact the insurance business in foreign currency.

32. Notwithstanding anything contained in any existing law, a minor between the ages of 10 to 18 shall enter into life assurance contract with the written approval of the parents or lawful guardian.

33. Notwithstanding anything contained in any existing law, no tax of any description whatsoever shall be assessed on insurance indemnity.

34. With the exception of debt payable to the State, no warrant of attachment shall be effected on insurance indemnity either criminally or civilly in respect of other debts.

35. This Law is not applicable to Myanmar Insurance established under Myanmar Insurance Law.

36. Section 27 and section 28 of this Law are determined as offences cognizable by the Myanmar Police Force.

37. The Ministry may form an organization of service personnel as may be necessary under this Law, with the approval of the Government.

38. For the purpose of carrying out the provisions of this Law:- (a) the Ministry may issue such rules and procedures as may be necessary with the approval of the Government;

(b) the Ministry or the Supervisory Board may issue such orders and directives as may be necessary.

Sd/ Than Shwe
Senior General
Chairman
The State Law and Order Restoration Council

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