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GENERAL NOTICE

NOTICE 1419 OF 2002**INSURANCE AMENDMENT BILL****PUBLICATION OF THE INSURANCE AMENDMENT BILL, 2002**

The Minister of Finance intends tabling the Insurance Amendment Bill, 2002 in Parliament during the third Parliamentary term. The Bill is published in accordance with Rule 241(1)(c) of the Rules of the National Assembly.

Interested persons and institutions are invited to submit written representation on the Bill to the Secretary to Parliament by no later than 23 September 2002.

All submissions must be addressed to:

**The Secretary to Parliament
c/o Messrs A Hermans/J Michaels/J Russouw
Committee Section
Parliament of the RSA
P.O. Box 15
CAPE TOWN
8000**

You can contact Messrs A Hermans/J Michaels or J Russouw at:

Fax: (021) 462 2141

Tel: (021) 403 3776/3806/3743

Email: *ahermans@parliament.gov.za*

jmichaels@parliament.gov.za

jrussouw@parliament.gov.za

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- _____ Words underlined with a solid line indicate insertions in existing enactments.
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BILL

To amend the Long-term Insurance Act, 1998, so as to insert certain definitions and substitute a definition; to further regulate advertising material relating to long-term policies, changes to a long-term insurer's name and conditions of registration; to make new provision regarding the business of reinsurers; to make new provision in respect of notifications of certain appointments, terminations and resignations, certain acts by a long-term insurer in respect of own shares, references to associates of persons holding interests in long-term insurers, maintenance of financially sound conditions, certain deeming provisions relating to assets of a long-term insurer; to correct incorrect references; to provide for further prohibitions concerning assets; to effect textual corrections; to provide for the exemption from the conditions in place for a certain conditional transaction; to further regulate the issuing of receipts in respect of premium payments; to make further provision in respect of failure to disclose material information by policyholders; to further regulate interest on unpaid premiums, loans and advances by long-term insurers, the holding of assets in the Republic by long-term insurers and the valuation of liabilities of long-term insurers; to repeal Schedule 2, to the said Act; and to refine the requirements in Schedule 3 for the calculation of the values of assets, liabilities and capital adequacy requirement; to amend the Short-term Insurance Act, 1998, so as to substitute certain definitions; to further regulate advertising material relating to short-term policies; to prohibit certain references in short-term policies to funerals; to make new provision regarding the business of reinsurers, changes to a short-term insurer's name, notification of certain appointments, terminations and resignations, certain acts by a short-term insurer in respect of own shares and references to associates of persons holding interests in short-term insurers; to provide for further prohibitions concerning assets; to provide for the furnishing of free policy copies to policyholders; to make further provision in respect of failure to disclose material information by policyholders; to further regulate the holding of assets in the Republic by short-term insurers and the calculation of the value of the assets of a short-term insurer; and to repeal certain Acts; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of Arrangement of Sections of Act 52 of 1998

1. The Arrangement of Sections of the Long-term Insurance Act, 1998, is hereby amended—

- (a) by the insertion after item 15 of the following item:
 “15A. Reinsurers carrying on reinsurance business only, authorised to also provide policy benefits under fund policies directly”; 5
- (b) by the substitution for item 18 of the following item:
 “18. Notification of certain appointments, [and] terminations and resignations”;
- (c) by the substitution for item 59 of the following item: 10
 “59. Misrepresentation and failure to disclose material information”;
- (d) by the substitution for item 61 of the following item:
 “61. [Prescription of certain debt] Interest on unpaid premiums, policy loans and advances”;
- (e) by the deletion of item “Schedule 2 Method of calculation of value of assets and liabilities”; and 15
- (f) by the substitution in item “Schedule 3” for the words “Financial soundness method of calculation of value of assets and liabilities” of the words:
 “Calculation of values of assets, liabilities and capital adequacy requirement”. 20

Amendment of section 1 of Act 52 of 1998

2. Section 1(1) of the Long-term Insurance Act, 1998, is hereby amended—

- (a) by the insertion after the definition of “Board” of the following definition:
 “ ‘capital adequacy requirement’ means an amount which a long-term insurer is required to have in terms of paragraph 2 of Schedule 3;”; 25
- (b) by the insertion after the definition of “disability policy” of the following definition:
 “ ‘fair value’ means the fair value of an asset determined by reference to South African Statements of Generally Accepted Accounting Practice;”;
- (c) by the insertion after the definition of “life policy” of the following definitions: 30
 “ ‘linked liabilities’ means the liabilities of a long-term insurer in respect of linked policies;
 ‘linked policy’ means a long-term policy of which the amount of the policy benefits is not guaranteed by the long-term insurer and is to be determined solely by reference to the value of particular assets or categories of assets which are specified in the policy and are actually held by or on behalf of the insurer specifically for the purposes of the policy;”; 35
- (d) by the substitution for the definition of “managing executive” of the following definition: 40
 “ ‘managing executive’ means the chief executive officer of a long-term insurer [or] and [a] every manager of that long-term insurer who reports directly to that chief executive officer;”; and
- (e) by the insertion after the definition of “managing executive” of the following definition: 45
 “ ‘market-related policy’ means a long-term policy, other than a linked policy, of which the amount of the policy benefits is not guaranteed by the long-term insurer and is to be determined in whole or in part by reference to the value of particular assets or categories of assets;”. 50

Amendment of section 4 of Act 52 of 1998

3. Section 4 of the Long-term Insurance Act, 1998, is hereby amended—

- (a) by the substitution for subsection (3) of the following subsection:
 “(3) (a) If any advertisement, brochure or similar [document] communication which relates to the business of a long-term insurer, or to a long-term policy, and which is being, or is to be, published or issued by a person, is misleading or contrary to the public interest or contains an incorrect statement of fact, the Registrar may by notice direct that person 55

not to publish or issue it or to cease publishing or issuing it or to effect the changes to it which the Registrar deems fit.

(b) An advertisement, brochure or similar communication which relates to a long-term policy must include the name of the long-term insurer underwriting the long-term policy.”; and

(b) by the substitution in subsection 7(a) and (b), for the expression “Short-term Insurance Act, 1997” of the expression “Short-term Insurance Act, 1998”.

Amendment of section 8 of Act 52 of 1998

4. Section 8 of the Long-term Insurance Act, 1998, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) No long-term insurer shall change its name, or a translation, shortened form or derivative thereof, without the prior approval of the Registrar.”.

Amendment of section 10 of Act 52 of 1998

5. Section 10 of the Long-term Insurance Act, 1998, is hereby amended by the substitution for paragraph (h) of the following paragraph:

“(h) reasonably necessary to ensure that the long-term insurance business concerned is carried on soundly and in a manner whereby the long-term insurer will [be in a position to meet] have assets with a fair value of not less than its liabilities and capital adequacy requirement.”.

Insertion of section 15A in Act 52 of 1998

6. The following section is hereby inserted in the Long-term Insurance Act, 1998, after section 15:

“Reinsurers carrying on reinsurance business only, authorised to also provide policy benefits under fund policies directly

15A. Notwithstanding sections 15(4) and 70, a person who is, by virtue of registration under this Act, authorised to carry on reinsurance business only may, subject to section 11, also carry on the business of providing or undertaking to provide policy benefits in terms of a fund policy directly to any fund contemplated in the definition of ‘fund’ in section 1(1).”.

Substitution of section 18 of Act 52 of 1998

7. The following section is hereby substituted for section 18 of the Long-term Insurance Act, 1998:

“Notification of certain appointments, terminations and resignations

18. (1) A long-term insurer shall notify the Registrar, in the form and of the information required by the Registrar, in respect of every director or managing executive appointed by it or whose appointment has been terminated by it, or who has resigned, within 30 days after such appointment or termination or resignation, as the case may be, together with the reasons for any such termination or resignation.

(2) Any such director or managing executive who resigns or whose appointment has been terminated by a long-term insurer shall, at the request of the Registrar, inform the Registrar in writing of any matter relating to the affairs of that insurer of which the director or managing executive became aware in the performance of his or her duties and which may prejudice the insurer’s ability to comply with this Act.”.

Amendment of section 24 of Act 52 of 1998

8. Section 24 of the Long-term Insurance Act, 1998, is hereby amended—

(a) by the substitution in paragraph (a) for subparagraph (vi) of the following subparagraph: