

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 255.

*Insurance*

GENERAL ANNOTATION.

ADMINISTRATION.

As at 13 February 1976 (the date of gazettal of the most comprehensive allocation of responsibilities to Ministers and Departments at about the effective date), the administration of this Chapter was vested in the Minister for Finance<sup>1</sup>.

Accordingly, except where a different intention is clearly indicated, by note or in the text, as at that date references in or in relation to this chapter to—

"the Minister"—should be read as references to the Minister for Finance;

"the Departmental Head"—should be read as references to the Secretary for Finance;

"the Department"—should be read as references to the Department of Finance.

TABLE OF CONTENTS.

	<i>Page.</i>
<i>Insurance Act</i> .....	3
<i>Insurance Regulation</i> .....	19
Subsidiary Legislation .....	23
Appendixes—	
1. Source of Act.	
2. Source of Regulation.	

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<sup>1</sup> But see also Section 4(2) of the Act.



INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 255.

*Insurance Act.*

ARRANGEMENT OF SECTIONS.

PART I.—PRELIMINARY.

1. Interpretation—
  - "accident insurance business"
  - "acting Commissioner"
  - "books"
  - "broker"
  - "carry on"
  - "the Commissioner"
  - "financial year"
  - "general insurance business"
  - "insurer"
  - "licensed broker"
  - "licensed insurer"
  - "Lloyd's"
  - "Lloyd's broker"
  - "Lloyd's underwriter"
  - "profit and loss account"
  - "the Register of Licensed Insurers and Brokers"
  - "the regulations"
  - "this Act".
2. Application.
3. Application of Companies Act and Banks and Financial Institutions Act.

PART II.—ADMINISTRATION.

4. The Insurance Commissioner.
5. Tenure of office and conditions of service.
6. Salary and allowances.
7. Leave of absence.
8. Outside employment.
9. Public Service rights of Commissioner to continue.
10. Vacation of office of Commissioner.
11. Acting Commissioner.
12. Oath of office.
13. Delegation.
14. Annual report.
15. Staff.
16. Secrecy.

PART III.—LICENSING OF INSURERS AND BROKERS.

17. Unlicensed persons carrying on general insurance business or acting as brokers.
18. Licensing of insurers and brokers.

19. Restrictions on names of licensed insurers and licensed brokers.
20. Revocation of licence.
21. Revocation on request.
22. Effect of revocation or failure to renew.
23. Policy guidelines.

PART IV.—DEPOSITS.

24. Deposits by licensed insurers and licensed brokers.

PART V.—AUDIT, RETURNS, INSPECTION, ETC.

25. Appointment and duties of auditor.
26. Returns to be submitted by insurers and brokers.
27. Powers of inspection.

PART VI.—MISCELLANEOUS.

28. Notice as to insurance business outside Papua New Guinea.
29. Arrangement of cover with oversea insurer.
30. Arbitration clauses.
31. Insurance business, etc., after commencement of winding-up of licensed corporation.
32. Address for service.
33. Service of documents and notices.
34. Register of licensed insurers and brokers.
35. Inspection of Register and accounts.
36. Evidence and judicial notice.
37. Defaulting officers.
38. Time for bringing proceedings.
39. Regulations.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 255.

*Insurance Act.*

Being an Act relating to insurance.

PART I.—PRELIMINARY.

1. Interpretation.

In this Act, unless the contrary intention appears—

“accident insurance business” means the business of undertaking liability under policies of insurance in respect of the happening of personal accidents, whether fatal or not, disease or sickness, or any class of personal accident, disease or sickness;

“acting Commissioner” means the person appointed under Section 11 to be the acting Commissioner of Insurance;

“books” includes accounts, deeds, writings, documents and any other records of information however compiled, recorded or stored, and whether in written or printed form, on microfilm or in any other form;

“broker” means a person who, for or in expectation of gain, acts as or carries on business as the agent of an insured person or a proponent for insurance in connexion with the transaction of general insurance business;

“carry on”, in relation to an insurer other than a Lloyd’s underwriter, means to seek, offer to accept or accept in the country any general insurance business whether by himself or by some other person acting on his behalf or with his authority;

“the Commissioner” means the Commissioner of Insurance appointed under Section 4(1);

“financial year”, in relation to a corporation, means the period in respect of which a profit and loss account of the corporation laid before it in general meeting is made up, whether that period is a year or not;

“general insurance business”—

(a) means the business of undertaking liability by way of insurance (including re-insurance) in respect of any loss or damage, including liability to pay damages or compensation, contingent on the happening of a specified event; and

(b) includes any business incidental to general insurance business as so defined,

but does not include—

(c) life insurance business; and

(d) accident insurance business undertaken solely in connexion with life insurance business; and

(e) any prescribed insurance business;

“insurer” means a person who carries on general insurance business;

- "licensed broker" means a broker licenced under Section 18;
- "licensed insurer" means an insurer licensed under Section 18;
- "Lloyd's" means the society of that name incorporated by the Imperial Act known as Lloyd's Act, 1871;
- "Lloyd's broker" means a broker who acts, either directly or indirectly, on behalf of and with the authority of a Lloyd's underwriter in the issue of cover for general insurance risks and for incidental purposes;
- "Lloyd's underwriter" means an underwriting member of Lloyd's;
- "profit and loss account" includes an income and expenditure account, a revenue account and any other account showing the results of the business of a corporation for a period;
- "the Register of Licensed Insurers and Brokers" means the register kept under Section 34;
- "the regulations" means any regulations made under this Act;
- "this Act" includes the regulations.

## 2. Application.

This Act does not apply to or in relation to general insurance business carried on by—

- (a) the State; or
- (b) a prescribed person, body or authority.

## 3. Application of Companies Act and Banks and Financial Institutions Act.

The requirements of this Act in relation to corporations are in addition to and not in derogation of or substitution for the requirements of the *Companies Act* or the *Banks and Financial Institutions Act*, but in the case of a conflict between the provision of this Act and a provision of the *Companies Act*, or the *Banks and Financial Institutions Act*, the former provision prevails.

## PART II.—ADMINISTRATION.

### 4. The Insurance Commissioner.

(1) The Minister may, by notice in the National Gazette, appoint a person to be the Insurance Commissioner.

(2) Subject to any directions of the Minister, the Commissioner is charged with the administration of this Act.

### 5. Tenure of office and conditions of service.

(1) Subject to this Act, the Commissioner holds office for such period as is specified in the instrument of his appointment.

(2) The terms and conditions of appointment and service of the Commissioner are as the Minister<sup>1</sup> from time to time fixes.

(3) A person who has attained the age of 65 years shall not be appointed or re-appointed as the Commissioner, and a person shall not be appointed or re-appointed as the Commissioner for a period that extends beyond the date on which he will attain the age of 65 years.

<sup>1</sup> As at the effective date, the reference was to the Prime Minister.

**6. Salary and allowances.**

The Commissioner shall be paid salary and allowances at such rates, or in accordance with such scales of rates, as are fixed by the Minister<sup>1</sup> after consultation with the Public Service Commission.

**7. Leave of absence.**

The Minister<sup>1</sup> may grant leave of absence to the Commissioner on such terms and conditions as to remuneration or otherwise as the Minister<sup>1</sup> fixes.

**8. Outside employment.**

(1) The Commissioner must not engage in paid employment outside the duties of his office.

Penalty: A fine not exceeding K200.00.

(2) A person who is a director or employee of a corporation that carries on insurance business in the country, or of a corporation related to such a corporation, shall not be appointed as the Commissioner, and the Commissioner shall not become a director or employee of a corporation that carries on insurance business in the country, or of a corporation related to such a corporation.

(3) The Commissioner must give written notice to the Minister of all direct and indirect pecuniary interests that he has or acquires in any insurance business carried on in any corporation carrying on any such business.

Penalty: A fine not exceeding K200.00.

**9. Public Service rights of Commissioner to continue.**

(1) If an officer of the Public Service is appointed to be the Commissioner, his service as Commissioner shall be counted as service in the Public Service for the purpose of determining his rights (if any) in respect of—

(a) leave of absence on the grounds of illness; and

(b) furlough or pay in lieu (including pay to dependants on the death of the officer).

(2) Section 104 of the *Public Service Act* applies in relation to the office of Commissioner as if it had been specifically included in that section.

**10. Vacation of office of Commissioner.**

(1) If the Commissioner—

(a) becomes permanently incapable of performing his duties; or

(b) resigns his office by writing under his hand to the Minister; or

(c) contravenes Section 8; or

(d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or

(e) is convicted of an offence punishable under a law by death or imprisonment for one year or longer and, as a result of the conviction, is under sentence of death or imprisonment,

the Minister shall terminate his appointment.

<sup>1</sup> As at the effective date, the reference was to the Prime Minister.

(2) The Minister may terminate the appointment of the Commissioner for inability, inefficiency, incapacity or misbehaviour.

#### 11. Acting Commissioner.

(1) Where—

(a) there is a vacancy in the office of Commissioner; or

(b) the Commissioner is, or is about to be, absent or unable to perform the functions of his office,

the Minister may, by notice in the *National Gazette*, appoint a person to act as the Commissioner until the vacancy is filled or during the absence or inability.

(2) The terms and conditions of appointment of an acting Commissioner are as the Minister<sup>1</sup> fixes.

(3) The Minister may terminate the appointment of an acting Commissioner.

(4) The appointment of an acting Commissioner made in anticipation of the absence or inability of the Commissioner has effect from and including the day on which the absence or inability commences.

(5) The appointment of an acting Commissioner ceases to have effect if he resigns the appointment by writing under his hand addressed to the Minister.

(6) Sections 7, 8 and 9 apply in relation to an acting Commissioner in the same way as they apply to the Commissioner.

(7) While the appointment of an acting Commissioner remains in force, he has and may exercise all the powers, and shall perform all the functions, of the Commissioner.

(8) The validity of anything done by a person appointed under this section shall not be called in question on the ground that the occasion for his appointment had not arisen or that the appointment had ceased to have effect.

#### 12. Oath of office.

(1) Before entering on the duties of his office, the Commissioner or an acting Commissioner shall take an oath or make an affirmation in the prescribed form.

(2) The oath or affirmation shall be taken or made before the Minister or a person appointed by the Minister for the purpose.

#### 13. Delegation.

The Commissioner may, by instrument, delegate to any person all or any of his powers and functions (except this power of delegation).

#### 14. Annual report.

The Commissioner shall, within three months after 30 June in each year, present to the Minister, for presentation to the Parliament, a report reviewing the operation of this Act during the year ended on that date and drawing attention to any measures that are, in his opinion, desirable for achieving the purposes of this Act.

#### 15. Staff.

(1) Subject to Subsection (2), any staff (other than the Commissioner) required for the purposes of this Act shall be officers or employees of the Public Service.

<sup>1</sup> As at the effective date, the reference was to the Prime Minister.

(2) Subsection (1) does not prevent any person from being employed, on contract or otherwise, under any other law to perform functions and duties for the Commissioner.

**16. Secrecy.**

(1) This section applies to every person who is or has been the Commissioner or acting Commissioner or a member of the staff assisting the Commissioner.

(2) Subject to this section, a person to whom this section applies, who, directly or indirectly, except in the performance of a duty under or in connexion with this Act;

(a) makes a record of; or

(b) divulges or communicates to any person,

any information concerning the affairs of any other person acquired by him by reason of his office or employment under or for the purposes of this Act is guilty of an offence.

Penalty: A fine not exceeding K1 000.00, or imprisonment for a term not exceeding six months, or both.

(3) This section does not prevent the communication of information or the production of a document by the Commissioner, or by a member of the staff assisting the Commissioner authorized by him for the purpose, to a person to whom, in the opinion of the Minister, it is in the public interest that the information be communicated or the document produced.

**PART III.—LICENSING OF INSURERS AND BROKERS.**

**17. Unlicensed persons carrying on general insurance business or acting as brokers.**

(1) Subject to Section 22, a person, other than a licensed insurer, who carries on general insurance business is guilty of an offence.

Penalty: A fine not exceeding K5 000.00 for each day during which the contravention continues.

(2) Subject to Section 22, a person, other than a licensed broker, who carries on business as a broker is guilty of an offence.

Penalty: A fine not exceeding K200.00 for each day during which the contravention continues.

(3) A person who acts as the agent of—

(a) an unlicensed insurer; or

(b) an unlicensed broker,

for the purpose of soliciting business or offering cover in connexion with general insurance business is guilty of an offence.

Penalty: A fine not exceeding K200.00 for each day during which the contravention continues.

**18. Licensing of insurers and brokers.**

(1) A corporation may apply to the Commissioner for a licence to carry on general insurance business.

(2) A person may apply to the Commissioner for a licence to carry on business as a broker.

(3) An application for a licence under Subsection (1) or (2) shall—

(a) be in writing; and

(b) contain such information as the Commissioner, either generally or in any particular case, requires.

(4) The Commissioner may refuse to grant the application, or may grant the application and issue a licence in the prescribed form.

(5) An insurer or broker who is refused a licence under this section may, within 30 days after notice of the refusal is given to it or him appeal to the Minister, whose decision is final.<sup>1</sup>

(6) The Commissioner shall cause a notice of the issue of a licence under this section to be published in the National Gazette, and the licence takes effect on the date specified in the notice.

(7) The fee (if any) for a licence under this section is as prescribed.

(8) Unless earlier revoked, a licence under this section remains in force until 31 December next succeeding the date of issue.<sup>2</sup>

(9) A licence may be renewed by the Commissioner for periods each not exceeding one year on written application accompanied by the prescribed fee.

(10) A person who makes an application under this section that is false or misleading in a material particular is guilty of an offence.

Penalty: In the case of an applicant for a licence or for the renewal of a licence as an insurer—a fine not exceeding K5 000.00. In the case of an applicant for a licence or for the renewal of a licence as a broker—a fine not exceeding K500.00.

#### **19. Restrictions on names of licensed insurers and licensed brokers.**

(1) Except with the written consent of the Minister, no licensed insurer or licensed broker may use the expression "Central", "National", "Papua", "New Guinea", "Papua and New Guinea", "Papua New Guinea", or "State", or an expression of a similar meaning (whether in the English language or in any other language), in the name, description or title under which it carries on business in Papua New Guinea.

(2) Where the Minister thinks that the use of a name or description by a licensed insurer or a licensed broker carrying on business in the country is undesirable, he may, by notice in the National Gazette, prohibit the use of that name or description by licensed insurers or licensed brokers or both.

(3) Subject to Subsection (4), a licensed insurer or a licensed broker who uses an expression, name or description in contravention of Subsection (1), or of a notice under Subsection (2), is guilty of an offence.

Penalty: A fine not exceeding K100.00 for each day for which the offence continues.

(4) It is a defence to a charge of an offence against Subsection (3) if the licensed insurer or licensed broker, as the case may be, proves that he had not had a reasonable opportunity of taking whatever steps are necessary to change its name or abandon the use of the expression, name or description.

<sup>1</sup> But see Constitution Section 155.

<sup>2</sup> But see Section 20(1)(e).

**20. Revocation of licence.**

(1) Where the Commissioner is of the opinion that a licensed insurer or licensed broker—

- (a) has ceased to carry on business as an insurer or broker, as the case may be, in the country, has gone into liquidation, has become bankrupt or applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, has been wound up or has been dissolved; or
- (b) has failed to comply with this Act; or
- (c) in the case of a licensed insurer, has failed or ceased to comply with Section 33 of the *Motor Vehicles (Third Party Insurance) Act*, or
- (d) for any other reason should not continue to be licensed; or
- (e) has failed to make application for renewal of a licence before 1 January in any year,

the Commissioner may revoke the licence.

(2) Before revoking a licence, the Commissioner—

- (a) shall give at least 30 days notice of his intention to do so to the insurer or broker, as the case may be, stating the grounds on which he intends to revoke the licence; and
- (b) shall give him an opportunity to make such written representations as he thinks fit within such period (not being less than 14 days) as is specified in the notice.

(3) An insurer or broker whose licence is revoked under this section may, within 30 days after notice of the revocation is given to it or him appeal to the Minister, whose decision is final.<sup>1</sup>

(4) The revocation of a licence under this section takes effect—

- (a) where no appeal is lodged against the revocation—on the date specified by the Commissioner in the notice of revocation; or
- (b) where an appeal is lodged against the revocation and the appeal is dismissed—on the date specified by the Minister in the notice dismissing the appeal.

(5) A notice of revocation of a licence shall be published in the National Gazette.

**21. Revocation on request.**

(1) Where a licensed insurer or licensed broker requests, by written notice to the Commissioner, that the licence issued to him be revoked, the Commissioner may, if he is of the opinion that it is proper to do so, by notice in the National Gazette revoke the licence.

(2) The revocation of a licence under Subsection (1) takes effect on the date specified by the Commissioner in the notice.

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<sup>1</sup> But see Constitution Section 155.

**22. Effect of revocation or failure to renew.**

Notwithstanding the revocation or the failure to make application for a renewal of a licence—

- (a) the insurer or broker concerned may, with the approval of the Minister, carry on general insurance business or business as a broker, as the case may be, for the purpose of winding-up the business; and
- (b) proceedings may be taken for the enforcement of a right by or against the insurer or broker.

**23. Policy guidelines.**

In the exercise and performance of his powers and functions under this Part, the Commissioner shall operate within any framework of policy laid down from time to time by the Head of State, acting on advice.

**PART IV.—DEPOSITS****24. Deposits by licensed insurers and licensed brokers.**

(1) It is a condition of a licence that the licensee shall at all times during the currency of the licence maintain with the Department a deposit of money amounting to—

- (a) in the case of a licensed insurer—K50 000.00; and
- (b) in the case of a licensed broker who is a Lloyd's broker—K10 000.00; and
- (c) in any case, such lesser amount as the Minister, having regard to the volume of business of the licensed insurer or licensed broker, from time to time determines.

(2) The Departmental Head may invest any deposit of money made under this section—

- (a) in any securities of, or guaranteed by, the State; or
- (b) on deposit in a bank; or
- (c) in the securities of any money market towards which the Central Bank acts as lender of last resort.

(3) Any money deposited under Subsection (1) remains the property of the licensed insurer or licensed broker, as the case may be, and the insurer or broker is entitled to receive interest on the money at such rate as the Minister from time to time determines.

(4) A deposit under Subsection (1) is security for the discharge of the liabilities (including contingent liabilities) of—

- (a) a licensed insurer—in respect of all general insurance policies issued by him including any third-party policies issued under the pre-Independence *Motor Vehicles (Third Party Insurance) Act 1952*, notwithstanding the repeal of that Act; and
- (b) a licensed broker—in respect of all Lloyd's policies issued by him,

as the case may be, and is not applicable in the discharge of any other liabilities of the insurer or broker until those first-mentioned liabilities have been discharged or otherwise provided for to the satisfaction of the Minister.

(5) A deposit under Subsection (1) shall not be returned to the licensed insurer or licensed broker after the date when he ceases to be a licensed insurer or licensed broker,

as the case may be, unless the Commissioner is satisfied that the liabilities (including contingent liabilities) of—

- (a) a licensed insurer—in respect of all general insurance policies issued by him; and
  - (b) a licensed broker—in respect of all Lloyd's policies issued by him,
- have been discharged or otherwise provided for to the satisfaction of the Minister.

**PART V.—AUDIT, RETURNS, INSPECTION, ETC.**

**25. Appointment and duties of auditor.**

(1) A licensed insurer and a corporation that is a licensed broker must have and shall appoint annually, or more frequently if required, an auditor who is—

- (a) a registered company auditor under the *Companies Act*; or
- (b) a person approved by the Commissioner.

Penalty: A fine not exceeding K200.00.

(2) If a licensed insurer or licensed broker fails to have an auditor as required by Subsection (1), the Commissioner may make the appointment and fix the remuneration to be paid to the auditor by the insurer or broker.

(3) The auditor shall audit and make a report to the Commissioner on the annual balance sheet and profit and loss account required by Section 26.

(4) For the purpose of an audit under this section, the auditor has all the powers of an auditor under the *Companies Act*.

**26. Returns to be submitted by insurers and brokers.**

(1) A licensed insurer must submit to the Commissioner as soon as practicable after the end of each of its financial years—

- (a) a copy of its annual report for that financial year; and
- (b) an audited balance sheet and profit and loss account, in forms approved by the Commissioner, for that financial year in respect of its general insurance business in the country.

(2) A licensed broker must submit to the Commissioner as soon as practicable after the end of each of his financial years—

- (a) such details of his business as a broker in the country during that financial year; and
- (b) such details of his financial position, including balance sheets and profit and loss accounts audited to the satisfaction of the Commissioner,

as the Commissioner reasonably requires.

(3) A licensed insurer must, in addition to the returns required under Subsection (1), submit to the Commissioner at the same time as it submits those returns, or at such later time as the Commissioner allows, such accounts and statements, in forms approved by the Commissioner, as the Commissioner requires relating to the insurer's general insurance business in the country generally, and in particular relating to—

- (a) the insurer's underwriting account and any other account; and

- (b) the insurer's premium income, earned premiums, provision for unexpired risks, claims paid, claims incurred, provision for outstanding claims and expenses; and
- (c) the insurer's assets, liabilities and investments in the country.

(4) A licensed broker must, as soon as practicable but in any event not later than three months after the end of each of his financial years, submit to the Commissioner such information, in a form approved by the Commissioner, relating to general insurance business that the broker has placed with insurers other than licensed insurers.

Penalty: A fine not exceeding K200.00.

#### 27. Powers of inspection.

(1) The Commissioner or a person authorized by him for the purpose may at any time during the ordinary hours of business—

- (a) enter any land or place where any person—
  - (i) is acting as; or
  - (ii) is carrying on, or is reasonably suspected by him to be acting as or carrying on, business as,
    - an insurer or broker; and
- (b) make such examination and inquiries as are necessary to ascertain the manner in which any business referred to in Paragraph (a) is being carried on and, in particular, whether the provisions of this Act have been or are being complied with in respect of that business; and
- (c) examine any person engaged or apparently engaged, whether as principal or employee, in the business, and require him—
  - (i) to answer any question put to him; and
  - (ii) to sign a declaration as to the truth of any answer given by him; and
- (d) inspect and examine any accounts, books or records relating to, or reasonably suspected by him to relate to, any business referred to in Paragraph (a), and for that purpose require—
  - (i) the holder of a licence; and
  - (ii) any person carrying on or reasonably suspected of carrying on any business to which this Act relates; and
  - (iii) any person who has possession, custody or control of any such accounts, books or records,
    - to produce the accounts, books and records to him, and make copies of or take extracts from any of them.

(2) A person who—

- (a) assaults, resists or obstructs the Commissioner or an authorized person in the exercise of his powers or the discharge of his duties under this section; or
- (b) fails or refuses to answer any question put to him by the Commissioner or an authorized person, or gives a false or misleading answer to any such question; or
- (c) fails or refuses to comply with a request of the Commissioner or an authorized person; or

- (d) when required to furnish information under this Act by the Commissioner or an authorized person—
  - (i) fails or refuses to give the information; or
  - (ii) gives false or misleading information; or
- (e) fails or refuses, without reasonable excuse (proof of which is on him)—
  - (i) to produce any book, account or record that he is required to produce under this Act by the Commissioner or an authorized officer; or
  - (ii) to allow the Commissioner or an authorized person to make copies of or take extracts from any such book, account or record; or
- (f) directly or indirectly prevents any person from appearing before or being questioned by the Commissioner or an authorized person; or
- (g) uses any threatening, abusive or insulting language to the Commissioner or authorized person whilst he is carrying out an authorized inspection under this Act,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

#### PART VI.—MISCELLANEOUS.

#### 28. Notice as to insurance business outside Papua New Guinea.

Where a licensed insurer carries on any business of insurance in a place outside Papua New Guinea and—

- (a) its right to carry on that business ceases; or
- (b) under a law of that place relating to the carrying on of a business of general insurance, the right of the corporation to carry on a business of general insurance in that place has ceased, is limited or is affected,

the insurer must immediately, by written notice to the Commissioner, inform the Commissioner accordingly.

Penalty: A fine not exceeding K200.00.

#### 29. Arrangement of cover with oversea insurer.

Where a broker, on behalf of a person resident in the country, arranges general insurance cover with an oversea insurer (other than a Lloyd's underwriter) who is not a licensed insurer, he must inform the person, in writing, that the cover is not protected by this Act.

Penalty: A fine not exceeding K200.00.

#### 30. Arbitration clauses.

(1) Notwithstanding the *Arbitration Act*, a provision of an agreement relating to general insurance whenever entered into or made—

- (a) requiring differences or disputes arising out of or in relation to the agreement to be submitted to arbitration; or
- (b) providing that no action, suit or other proceedings may be commenced, proceeded with or maintained against the insurer in respect of any claim

under, or difference or dispute arising out of or in relation to, the agreement, unless—

- (i) the issue, claim, difference or dispute has first been submitted to arbitration; or
- (ii) an award in arbitration proceedings has been first obtained; or
- (c) providing that arbitration or an award in arbitration proceedings is a condition precedent to any right of action, suit or other proceedings on or in relation to the agreement; or
- (d) imposing, by reference to arbitration or to an award in arbitration proceedings, any limitation on the right of any person to bring or maintain an action, suit or other proceedings on or in relation to the agreement,

does not, subject to Subsection (2), bind the insured.

(2) This section does not apply to an agreement to submit a difference or dispute to arbitration made or entered into after a difference or dispute has arisen out of or in relation to an agreement relating to general insurance.

### **31. Insurance business, etc., after commencement of winding-up of licensed corporation.**

(1) Subject to Subsection (2), where a corporation that is licensed under this Act commences to be wound up, the corporation must not, after the date of commencement of the winding-up, carry on the business.

Penalty: A fine not exceeding K200.00.

(2) A corporation is not guilty of a contravention of Subsection (1) by reason only that it is carrying on business for the purpose of discharging liabilities assumed by it before the date of commencement of the winding-up.

(3) In the winding-up of a corporation that is licensed under this Act, unless it has no liabilities in the country, its assets in the country shall not be applied in the discharge of its liabilities other than its liabilities in the country.

(4) This section does not affect the validity of a contract entered into by a corporation after it commences to be wound up.

### **32. Address for service.**

(1) A corporation that is not incorporated in the country and that is licensed under this Act must, at all times while it is so licensed, have an address in the country for service for the purposes of this Act.

Penalty: A fine not exceeding K200.00.

(2) The address referred to in Subsection (1) does not become the address for service of the corporation until the corporation has given written notice of the address to the Commissioner, and an address so notified continues to be the address of the corporation until another address has been so notified.

### **33. Service of documents and notices.**

(1) In this section, "registered office" means the office of the corporation that is the registered office in accordance with the law of Papua New Guinea by or under which the corporation is incorporated.

(2) A document or notice required or permitted to be served on, or given to, a person for the purposes of this Act, may be served or given—

- (a) in the case of a person other than a corporation,
  - (i) by serving it personally on the person; or
  - (ii) by sending it by registered post to the person at his usual or last known place of abode or business; or
- (b) in the case of a corporation incorporated in the country—by leaving it at or sending it by registered post to the registered office of the corporation; or
- (c) in the case of a corporation not incorporated in the country—
  - (i) by leaving it at the address for service of the corporation notified to the Commissioner in accordance with Section 32; or
  - (ii) by sending it by registered post to the corporation at that address.

#### 34. Register of licensed insurers and brokers.

(1) For the purposes of this Act, the Commissioner shall cause to be kept a register to be known as the Register of Licensed Insurers and Brokers.

(2) Subject to this Act, the Register of Licensed Insurers and Brokers shall be kept in a form and manner approved by the Commissioner.

#### 35. Inspection of Register and accounts.

A person may, on written application and on payment of the prescribed fee (if any)—

- (a) inspect the Register of Licensed Insurers and Brokers; and
- (b) inspect and make a copy of, or take extracts from, any annual report, profit and loss account or balance sheet lodged with the Commissioner under Section 26.

#### 36. Evidence and judicial notice.

(1) A certificate under the hand of the Commissioner certifying as to any matter relating to the contents of the Register of Licensed Insurers and Brokers shall be received in all courts as evidence of the matter so certified.

(2) All courts, Judges and persons acting judicially shall take judicial notice of the official signature of any person who is or has been the Commissioner and of the fact that that person is or was the Commissioner.

#### 37. Defaulting officers.

(1) In this section—

“officer”, in relation to a corporation, includes—

- (a) all persons who are officers of the corporation for the purposes of the *Companies Act*; and
- (b) a member of the board of management or other controlling authority of the corporation;

“officer of the corporation who is in default” includes an officer of the corporation who knowingly and wilfully authorizes or permits the commission of an offence by the corporation.

(2) Where an offence against this Act is committed by a corporation, every officer of the corporation who is in default is guilty of an offence.

Penalty: A fine not exceeding K100.00 or 10% of the penalty to which the corporation is liable, whichever is the greater.

**38. Time for bringing proceedings.**

Notwithstanding any other Act, proceedings for the summary prosecution of an offence against this Act may be brought at any time—

- (a) within 12 months after the offence was committed; or
- (b) within six months after the commission of the offence comes to the knowledge of the Commissioner,

whichever is the later.

**39. Regulations.**

The Head of State, acting on advice may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act and in particular for prescribing—

- (a) the forms to be used under or in connexion with this Act; and
- (b) the fees to be paid in relation to anything done or to be done under this Act; and
- (c) penalties of fines not exceeding K200.00 for offences against the regulations.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 255.

*Insurance Regulation.*

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ARRANGEMENT OF SECTIONS.

1. Form of licence.
2. Oath and affirmation of office of Insurance Commissioner.
3. Licence fees.

SCHEDULES.

SCHEDULE 1.

FORM 1.—Licence.

SCHEDULE 2.—Oath and Affirmation of Office of Insurance Commissioner.



INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 255.

*Insurance Regulation.*

MADE under the *Insurance Act.*

1. **Form of licence.**

A licence under Section 18(4) of the Act shall be in Form 1.

2. **Oath and affirmation of office of Insurance Commissioner.**

The oath or affirmation of office for the purpose of Section 12 of the Act shall be in the form in Schedule 2.

3. **Licence fees.**

For the purposes of Section 18(7) of the Act, the prescribed fee for a licence and for a renewal of a licence is K50.00 and is payable—

(a) on the issue of a licence; and

(b) in the case of a renewal of a licence, on or before 1 January in each subsequent year after the grant of the licence.

SCHEDULES.

SCHEDULE 1.

PAPUA NEW GUINEA.

*Insurance Act.*

Act, Sec. 18(4).

Form 1.

Reg., Sec. 1.

LICENCE.

Subject to the *Insurance Act*, (*insert the name of applicant*) is licensed to be an insurer/a broker\* for the purposes of that Act.

This licence expires on 31 December, 19 .

Dated 19 .

Insurance Commissioner.

Fee: K50.00.

\* Strike out whichever is inapplicable.

Ch. No. 255

*Insurance*

SCHEDULE 2.

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Act, Sec. 12(1).

Reg., Sec. 1.

OATH AND AFFIRMATION OF OFFICE OF INSURANCE COMMISSIONER.

*Oath.*

I, \_\_\_\_\_ do swear that I will render true and faithful service to the Government of Papua New Guinea in the office of Insurance Commissioner (*or acting Insurance Commissioner*).

So help me God!

*Affirmation.*

I, \_\_\_\_\_ do solemnly and sincerely promise and declare that I will render true and faithful service to the Government of Papua New Guinea in the office of Insurance Commissioner (*or acting Insurance Commissioner*).

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 255.

Insurance.

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SUBSIDIARY LEGISLATION.

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1. Act, Section 18(6)—Issue of licences.  
General Accident Fire & Life Assurance Corporation Ltd.  
Malayan Insurance Company, Inc.
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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 255.

*Insurance.*

APPENDIXES

APPENDIX 1.

SOURCE OF THE INSURANCE ACT.

Part A.—Previous Legislation.

*Insurance Act* 1974 (No. 52 of 1974)

as amended by—

*Insurance (Amendment) Act* 1975 (No. 71 of 1975).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous References. <sup>1</sup>	Section, etc., in Revised Edition.	Previous References. <sup>1</sup>
1	3	21	23
2	4	22	24
3	2	23	25
4	5, 8	24	26
5	6	25	27
6	7	26	28
7	9	27	29
8	10	28	30
9	11	29	31
10	12	30	32
11	13	31	33
12	14	32	34
13	15	33	35
14	16	34	36
15	18	35	37
16	17	36	38
17	19	37	40
18	20	38	41
19	21	39	42
20	22		

<sup>1</sup> Unless otherwise indicated, references are to the Act set out in Part A.

APPENDIX 2.

SOURCE OF THE INSURANCE REGULATION.

Part A.—Previous Legislation.

Insurance Regulation 1975 (Statutory Instrument No. 41 of 1975).

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous References. <sup>1</sup>
1	2
2	—
3	3
Schedule 1	Schedule—
Form 1	Form 1
Schedule 2	Act, Schedule

<sup>1</sup> Unless otherwise indicated, references are to the regulation set out in Part A.