



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**CONTROL OF INSURANCE (AMENDMENT)
ACT, No. 42 OF 1986**

[Certified on 2nd December, 1986]

Printed on the Orders of Government

**Published as a Supplement to Part II of the Gazette of the Democratic
Socialist Republic of Sri Lanka of December 05, 1986**

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA

TO BE PURCHASED AT THE GOVERNMENT PUBLICATIONS BUREAU, COLOMBO

Price : Re. 1.65

Postage : Re. 1.15

Control of Insurance (Amendment)
Act, No. 42 of 1986

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L.D.—O. 38/85

AN ACT TO AMEND THE CONTROL OF INSURANCE ACT, No. 25
OF 1962

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

1. This Act may be cited as the Control of Insurance (Amendment) Act, No. 42 of 1986, and shall come into operation on such date as may be appointed by the Minister by Order published in the *Gazette*.

Short title
and date of
operation.

2. Section 3 of the Control of Insurance Act, No. 25 of 1962 (hereinafter referred to as the "principal enactment") is hereby amended by the repeal of subsection (3) of that section.

Amend-
ment of
section 3 of
Act, No. 25
of 1962.

3. Section 4 of the principal enactment is hereby repealed and the following section substituted therefor:—

Replace-
ment of
section 4 of
the princi-
pal enact-
ment.

"Insurance
business
to be
carried on
only by
persons
registered
under
this Act.

4. Subject to the provisions of this Act, from and after the date on which this section comes into operation no person shall commence to carry on insurance business of any class unless such person is a company incorporated in Sri Lanka and registered under the Companies Act, No. 17 of 1982, for the sole purpose of carrying on insurance business and is for the time being registered under this Act, as being authorized to carry on insurance business in Sri Lanka."

4. Section 5 of the principal enactment is hereby repealed and the following section substituted therefor:—

Replace-
ment of
section 5 of
the princi-
pal enact-
ment.

"Require-
ments of a
company
applying
for regis-
tration.

5. (1) No company shall be registered under this Act, as being authorized to carry on insurance business in Sri Lanka unless such company—

(a) is a company which is incorporated in Sri Lanka under the Companies Act, No. 17 of 1982 and which is not a private company as defined in section 30 of that Act; and

(b) is a company which has a paid up share capital of—

(i) not less than twenty-five million rupees where the insurance business proposed to be carried on by such company is solely life assurance business ;

(ii) not less than fifty million rupees where the insurance business proposed to be carried on by such company is of any class or classes other than life assurance business.

(2) Notwithstanding anything in subsection (1), any company which is incorporated in Sri Lanka under the Companies Act, No. 17 of 1982 and which is not a private company as defined in section 30 of that Act and the paid up share capital of which is—

(a) over fifteen million rupees but less than twenty-five million rupees, where the insurance business proposed to be carried on by such company is solely life assurance business ;

(b) over twenty-five million rupees but less than fifty million rupees, where the insurance business proposed to be carried on by such company is of such class or classes other than life assurance business,

may be registered under this Act, as being authorized to carry on insurance business subject to the condition that such company does not issue any policy of insurance for an amount exceeding three times the value of its paid up share capital.

5. Section 6 of the principal enactment is hereby amended as follows :—

(a) in subsection (1) of that section—

(i) by the substitution in paragraph (a), for the words “by the insurer, and”, of the words “by the insurer ;” ;

Amendment
of section
6 of the
principal
enactment.

(ii) by the repeal of paragraph (b) of that section and the substitution therefor of the following paragraphs:—

“(b) a certified copy of the memorandum and articles of association of the company;

(c) a certified copy of the certificate of incorporation of the company;

(d) a certified copy of the certificate to commence business issued by the Registrar of Companies;

(e) a statement setting out the prescribed particulars relating to—

(i) the share-holders of the company;

(ii) the Directors of the company;

(iii) the officers referred to in sections 19A and 34A;

(f) a statement setting out the class or classes of insurance business proposed to be carried on by the company; and

(g) a statement setting out the amount of the paid up share capital of the company.”

(b) by the repeal of subsection (2) of that section; and

(c) by the substitution for subsection (4) of that section of the following subsection:—

“(4) Every application for registration under this section shall be accompanied by—

(a) the prescribed fee; and

(b) a scheme of work or business plan for a period of three years, submitted for the approval of the Controller.”

6. Section 7 of the principal enactment is hereby amended as follows:—

(a) by the repeal of subsection (1) of that section, and the substitution of the following subsection therefor:—

“(1) Where the Controller is satisfied that any company making an application for registration under this Act has complied with the provisions of sections 5 and 6, the Controller shall register such

Amendment of section 7 of the principal enactment.

company as a person authorized to carry on insurance business in Sri Lanka and shall specify the class or classes of insurance business which such company is authorized to carry on."

(b) by the insertion immediately after subsection (2) of that section, of the following new subsection:—

"(3) Every certificate of registration issued under subsection (2) of this section shall be valid for a period of one year and subject to the provisions of this Act, may be renewed annually on the payment of a fee of five thousand rupees."

Amend-
ment of
section 8 of
the princi-
pal enact-
ment.

7. Section 8 of the principal enactment is hereby amended by the substitution for the words and figures "of subsection (1) or of subsection (2) of section 6", of the words and figures "of subsection (1) of section 6".

Repeal of
section 9 of
the princi-
pal enact-
ment.

8. Section 9 of the principal enactment is hereby repealed.

Amend-
ment of
section
10 of the
principal
enactment.

9. Section 10 of the principal enactment is hereby amended in subsection (3) of that section, by the substitution in paragraph (a) of that subsection for the words, "a fee of two hundred and fifty rupees" of the words "the prescribed fee".

Amend-
ment of
section
16 of the
principal
enactment.

10. Section 16 of the principal enactment is hereby amended by the substitution for all the words from "Every Ceylon Insurer" to the words "keep and maintain", of the words "Every Insurer shall in respect of all insurance business transacted by such insurer keep and maintain".

Amend-
ment of
section
19 of the
principal
enactment.

11. Section 19 of the principal enactment is hereby amended by the repeal of subsections (1) and (2) of that section and the substitution therefor of the following subsections:—

"(1) (a) An Insurer may, with the approval of the Controller and subject to such terms and conditions as may be specified by the Controller in that behalf re-insure with any other insurer in or outside Sri Lanka, any liability arising out of any contract or policy of insurance effected or issued by the first-mentioned insurer; and

(b) Every insurer shall cede fifteen *per centum* of the gross annual premia received by him under contracts and policies of fire and marine insurance effected or issued by him, to the National Insurance Corporation by way of reinsurance.

(2) The Controller may by a notice in writing require any insurer carrying on reinsurance to furnish him with such information as he may deem necessary to ascertain whether such insurer has the necessary funds to satisfy any claim that may be made on such insurer and it shall be the duty of such insurer to comply with the requirements of such notice."

12. The following sections are hereby inserted immediately after section 19 of the principal enactment, and shall have effect as sections 19A, 19B, 19c and 19D, of the principal enactment:—

Insertion
of new
sections
19A, 19B, 19c
and 19D of
the principal
enactment.

"Staff of
insurer
carrying
on
insurance
business.

19A. Every insurer carrying on insurance business other than life assurance business shall employ at least one person at managerial level—

(a) possessing the qualification of Associate of the Chartered Insurance Institute or an equivalent qualification; or

(b) possessing the qualification of Fellow of the Chartered Insurance Institute or an equivalent qualification,

and having at least five years post qualification experience.

Prohibition
on holding of
shares
in any
insurance
brokering
company
by
insurer.

19B. No insurer or the holding or subsidiary company of an insurer shall hold any shares in any company carrying on the business of insurance brokering.

Persons
from
whom
insurer
may
accept
insurance
business.

19c. No insurer shall accept any insurance business except from—

(a) the insured in respect of whom a contract or policy of insurance is effected or issued;

(b) another insurer in respect of reinsurance;

(c) an insurance agent; or

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- (d) an insurance broker registered under this Act.

Liability of insurer under policies of general insurance.

19b. An insurer shall not be liable to pay any amount due under any contract or policy of insurance effected or issued by him in respect of insurance business other than life assurance business unless—

- (a) the full premia due under such contract or policy on the date on which such amount becomes payable, has been paid ; or
- (b) a bank guarantee for the payment of such premia has been furnished by the insured on the date on which such amount became payable and the insured pays such premia within thirty days of such date. "

Replacement of section 21 of the principal enactment.

13. Section 21 of the principal enactment is hereby repealed and the following section substituted therefor :—

"Power of Controller to fix rates of premium."

21. (1) The Controller may from time to time fix and notify the maximum or minimum rates of premia, or both such rates, to be charged by insurers in respect of policies of insurance to be issued by them.

(2) No insurer shall accept as premia under a contract or policy of insurance effected or issued by him in respect of any class of insurance, an amount which is—

- (a) higher than the maximum rate fixed for that class of insurance under subsection (1) ; or
- (b) lower than the minimum rate fixed for that class of insurance under subsection (1). "

Insertion of new section 21A in the principal enactment.

14. The following new section is hereby inserted immediately after section 21 of the principal enactment and shall have effect as section 21A of that enactment :—

"Policy forms."

21A. (1) The Controller may by a notice in writing require any insurer to furnish him with copies of policy forms issued by such insurer and it shall be the duty of such insurer to comply with the requirements of such notice.

(2) The Controller may having regard to the need to ensure that the terms of the contract of insurance covered by such policy form are fair and equitable suggest amendments to any policy form furnished to him under subsection (1) of this section and it shall be the duty of the insurer furnishing such forms to give effect to such amendments."

15. Section 29 of the principal enactment is hereby amended by the omission therefrom of the expression "if such insurer is a company,".

Amendment of section 29 of the principal enactment.

16. Section 33 of the principal enactment is hereby amended as follows:—

Amendment of section 33 of the principal enactment.

(a) in subsection (1) of that section, by the omission of the expression, "where such insurer is a company,"; and

(b) in subsection (2) of that section, by the omission of the expression, "where such insurer is a company,".

17. The following new sections are hereby inserted immediately after section 34 of the principal enactment and shall have effect as sections 34A and 34B, of the principal enactment:—

Insertion of new sections 34A and 34B in the principal enactment.

Staff of insurer carrying on life assurance business.

34A. Every insurer carrying on the business of life assurance shall—

(a) employ on its staff at least one person with over ten years experience in life assurance at managerial level;

(b) employ, or retain on a permanent basis, an actuary to investigate the financial condition of such business.

Reserve Fund.

34B. (1) Subject to subsection (4), every insurer carrying on life assurance business shall invest fifty per centum of his reserve funds including capital in Government securities and the balance in approved investments.

(2) Subject to subsection (4) every insurer carrying on insurance business other than life assurance business shall invest thirty per centum of his reserve funds including capital in government securities and the balance in approved investments.

(3) For the purpose of this section "an approved investment" means—

- (a) approved securities;
- (b) deposits with Commercial Banks;
- (c) deposits and investments with the State Mortgage Bank established under the State Mortgage and Investment Bank Act, No. 13 of 1975 or deposits and investments in the Housing Development Finance Corporation of Sri Lanka Limited, established under the National Housing Act (Chapter 401);
- (d) investments in quoted public companies.

(4) No insurer shall invest—

- (a) more than five per centum of its reserve funds in any approved investment referred to in paragraph (a) or (d) of subsection (3) except with the permission of the Controller; or
- (b) more than five per centum of its reserve funds as a deposit in a commercial bank being a bank which has shares in, or is a holding or subsidiary of, the insurer.

Amendment of section 35 of the principal enactment.

18. Section 35 of the principal enactment is hereby amended as follows:—

- (a) by the substitution in subsection (1) of that section, for all the words from "Every Ceylon insurer" to "to that year" of the words "Every insurer in respect of all insurance business transacted by such insurer, shall at the expiration of each calendar year prepare with reference to that year"; and

- (b) by the repeal of subsection (2) of that section and the substitution therefor of the following subsection:—

“(2) The accounts and statements referred to in subsection (1) shall be signed in the case of a company by the officers or persons required by the Companies Act, No. 17 of 1982, to sign such accounts and statements and in any other case by the insurer and shall be accompanied by a statement containing the names and descriptions of each of the persons in charge of the management of the business during the period to which such accounts and statements relate and by a report by such persons on the affairs of the business during that period.”.

19. Section 37 of the principal enactment is hereby amended as follows:—

Amendment of section 37 of the principal enactment.

- (a) in subsection (3) of that section by the omission of the words “the insurer or authorized officer of the insurer, or where the insurer is a company,”.

- (b) by the repeal of subsection (6) of that section.

20. Section 38 of the principal enactment is hereby amended as follows:—

Amendment of section 38 of the principal enactment.

- (a) by the repeal of the provisos to subsection (1) of that section and the substitution therefor of the following proviso:—

“Provided that the Controller may extend the period allowed for furnishing returns by a period not exceeding three months.”; and

- (b) by the repeal of subsection (2) of that section and the substitution therefor of the following subsection:—

“(2) One of the four copies furnished under subsection (1) shall be signed by the Directors.”.

21. Section 40 of the principal enactment is hereby amended by the omission of the words “in the case of an insurer which is a company,”.

Amendment of section 40 of the principal enactment.

22. Section 54 of the principal enactment is hereby amended by the repeal of subsection (3) of that section and the substitution therefor of the following subsection:—

Amendment of section 54 of the principal enactment.

“(3) Any act done by the Controller in pursuance of the powers vested in him under subsection (2) shall have effect notwithstanding anything in the memorandum or articles of association of the insurer.”.

Amendment of section 58 of the principal enactment.

23. Section 58 of the principal enactment is hereby repealed and the following section substituted therefor:—

“Penalty for withholding property or documents from administrators.

58. If any director of an insurer fails to deliver to the administrator any books of account, register or any documents in his custody, relating to the business of the insurer the management of which has vested in the administrator, or retains any property of such insurer, he shall be guilty of an offence and shall be liable to imprisonment of either description, for a period not exceeding six months, or a fine not exceeding one thousand rupees or both such imprisonment and fine.”

Amendment of section 61 of the principal enactment.

24. Section 61 of the principal enactment is hereby amended by the repeal of subsection (1) of that section and the substitution therefor of the following subsection:—

“(1) An insurer shall be deemed for the purposes of section 254 of the companies Act, No. 17 of 1982, to be unable to pay its debts, if the value of the assets relating to the insurance business carried on by him does not exceed the amount of the liabilities relating to such business by the amount of the deposit for the time being required to be maintained by such company under section 12 of this Act or one-tenth of the general premium income for the preceding financial year, whichever is the greater, and the provisions of this Act shall apply accordingly.

Amendment of section 70 of the principal enactment.

25. Section 70 of the principal enactment is hereby amended by the substitution for all the words from “to proceed against—” to the end of that section, of the words, “to proceed against any other assets held by such person and where such person is a company the assets held by each director of such company on or after that date, and recover any sum outstanding under such policy of insurance.”

Amendment of section 73 of the principal enactment.

26. Section 73 of the principal enactment is hereby amended by the repeal of subsection (2) of that section and the substitution therefor of the following subsection:—

“(2) Where an offence under this Act is committed by an insurer, every director of the insurer shall also be guilty of the same offence and be liable to the same

punishment, unless he proves that the offence was committed without his knowledge or consent and that he had taken all reasonable steps to prevent the commission of the offence.”.

27. The following new Part is hereby inserted immediately after Part VIII of the principal enactment and shall have effect as Part VIIIA:—

Insertion
of new
Part VIIIA
of the
principal
enactment

“PART VIIIA

REGISTRATION OF INSURANCE BROKERS

Prohibition on carrying on the business of an insurance broker without being registered.

75A. (1) No person shall commence to carry on business as an insurance broker unless he is registered under this Part as being authorized to carry on such business.

(2) No person shall be registered as an insurance broker under this Act—

(a) unless he possesses at least fifteen years experience in the class of insurance business, in respect of which he has applied to be registered as a broker, or possesses the qualification of Associate of the Chartered Insurance Institute or an equivalent qualification with five years post qualification experience in the class of insurance business in respect of which he has applied to be registered or the qualification of Fellow of the Chartered Insurance Institute or an equivalent qualification with at least five years experience in the class of insurance business in respect of which he has applied to be registered.

(b) where such person is a company, unless such company employs at least one person in a permanent capacity, who possesses at least fifteen years

experience in the class of insurance business, in respect of which the company has applied to be registered or possesses the qualification of Associate of the Chartered Insurance Institute or an equivalent qualification with at least five years post qualification experience in the class of insurance business in respect of which the company has applied to be registered as an insurance broker, or possesses the qualification of Fellow of the Chartered Insurance Institute or an equivalent qualification with five years post qualification experience, in the class of insurance business, in respect of which the company has applied to be registered.

(3) No person shall be registered under this Part as an insurance broker except upon the payment by such person to the Controller of a fee of one thousand rupees.

(4) Every person registered under this Part, as an insurance broker, shall be subject to the terms and conditions set out in the Seventh Schedule.

(5) Where any person is registered under this Part as an insurance broker and such person acts in violation of any of the terms and conditions set out in the Seventh Schedule the Controller may, by order suspend for any period specified in such order, or cancel, such registration.

Issue of the certificate of registration.

75B. Upon the registration of any person as an insurance broker under this Part, a certificate of registration shall be issued by the Controller to such person.

Renewal of the certificates of registration.

75C. (1) The certificate of registration issued under this Part shall—

- (a) be valid for a period of one year ; and
- (b) be renewed annually on payment of a fee of five hundred rupees.

(2) The certificate of registration issued under this Part, shall authorize the holder to carry on business as an insurance broker in respect of life assurance business or any other class or classes of insurance business not being life assurance business.

Every broker intending to carry on business as an insurance broker in respect of life assurance business and any other class or classes of insurance not being life assurance business, shall apply for two certificates of registration.

Certificate of registration not transferable.

75D. No certificate of registration—

(a) shall be transferable to any other person, and accordingly any such transfer shall be null and void;

(b) shall be used for the benefit of any other person.

Suspension or cancellation of registration.

75E. (1) If the Controller is of the opinion that any person to whom a certificate of registration has been issued is unfit to carry on such business for the reason that—

(a) he is an undischarged bankrupt or is an insolvent; or

(b) he is convicted of any offence involving moral turpitude; or

(c) he is, under any law in force, found or declared to be of unsound mind; or

(d) he persists in disobeying the instructions given by the Controller,

he may having regard to the nature of the misconduct, by order suspend for any period specified in such order, or cancel, such certificate.

(2) No order under subsection (1) shall be made against a person carrying on business as an insurance broker except after notice in writing to him to show cause within such period as may be specified in the notice, why such order should not be made, and except on his failing to show cause within such period or on his not showing sufficient cause.

(3) Any person carrying on business as an insurance broker against whom an order is made under subsection (1) may prefer an appeal in writing to the Secretary to the Ministry of the Minister before the expiry of ten days after the date on which such order is communicated to that person by or on behalf of the Controller by whom such order was made, and the Secretary may, in dealing with any appeal preferred to him, affirm, vary or annul the order against which the appeal has been preferred.

(4) An order under subsection (1) suspending or cancelling a certificate of registration issued to a person to carry on business as an insurance broker shall come into force on the date on which such order is communicated to that person by or on behalf of the Controller, and shall continue to be in force notwithstanding that an appeal against such order has been preferred to the Secretary.

(5) Any notice required to be given, or any order required to be communicated under the preceding provisions of this section, to any person shall be deemed to have been served or communicated on or to him after the expiry of a period of two days reckoned after the date of despatch of such notice or order by letter sent by registered post to his usual place of business or residence.

Regulations in respect of matters relating to insurance brokers.

75F. Regulations may be made under this Act for and in respect of all or any of the following matters:—

(a) the mode and manner in which applications for registration as an insurance broker may be made and disposed of ;

(b) the furnishing of all such statements and declarations relating to the business carried on by an insurance broker as may be necessary for ensuring that the provisions of this Act or any regulations made thereunder are complied with ;

- (c) the maximum commission to be charged by an insurance broker in respect of life assurance business and any other class of insurance business other than life assurance business.

Power to
issue direc-
tions to
insurance
broker.

75G. The Controller may issue to any person carrying on business as an insurance broker, any such written directions as he may think necessary for the purpose of ensuring compliance by such person with the provisions of this Act or any regulations made thereunder, and the person to whom any such directions are issued shall comply with such directions within such time as shall be specified therein.

Mainte-
nance of
records.

75H. Every person carrying on business as an insurance broker shall maintain such records as may be prescribed."

28. Section 76 of the principal enactment is hereby amended by the substitution—

Amend-
ment of
section 76
of the
principal
enact-
ment.

(a) in paragraph (a) of that section for the words "a person," of the words "a person competent in insurance work, "; and

(b) in paragraph (b) of that section for the words "a person," of the words "a person competent in insurance work,".

29. The following new sections are hereby inserted immediately after section 76 of the principal enactment and shall have effect as section 76A and section 76B of the principal enactment:—

Insertion
of new
sections 76A
and 76B
in the prin-
cipal enact-
ment.

Insurance
Advisory
Commit-
tee.

76A. (1) There shall be a Committee, which shall be called the Insurance Advisory Committee (hereinafter referred to as the "Advisory Committee") consisting of four persons appointed by the Minister, from and amongst persons who have distinguished themselves in the field of insurance.

(2) The Minister shall appoint one of the members of the Committee to be the Chairman of the Committee.

(3) Every member of the Committee shall, unless he earlier vacates office by death, resignation or removal, hold office for a period of three years. Any member of the Committee who vacates office by effluxion of time shall be eligible for re-appointment.

(4) Any member of the Committee may resign from the office of member by letter addressed by him to the Minister.

(5) Any member of the Committee may be removed from office by the Minister without assigning any reason therefor.

(6) The quorum for any meeting of the Committee shall be two members.

Duties of
the Advisory
Committee.

76B. It shall be the duty of the Advisory Committee, to advise the Controller on the administration and implementation of this Act and on any matter relating thereto which may be referred by the Controller to such Committee for its advice."

Amend-
ment of
section 77 of
the principal
enactment.

30. Section 77 of the principal enactment as amended by Act No. 9 of 1967, is hereby further amended, by the repeal of subsection (1) of that section and the substitution therefor of the following subsection:—

"(1) Any notice or other document required or authorized by or under this Act to be served on any insurer shall be served on any director or manager or officer thereof in accordance with the provisions in that behalf contained in the Companies Act, No. 17 of 1982, and if so served shall be deemed for the purposes of this Act to have been duly served."

Amend-
ment of
section 84 of
the principal
enactment.

31. Section 84 of the principal enactment is hereby amended in subsection (1) thereof as follows:—

(a) by the substitution for the definition of "approved securities" of the following definition:—

"approved securities" means—

- (a) Government securities,
- (b) Government guaranteed securities,
- (c) Local authority securities,
- (d) Post Office Savings Bank Certificates,

- (e) shares of the Development Finance Corporation of Ceylon,
- (f) Investment in any approved project,
- (g) ordinary shares, preference shares and debentures, of any institution in which the Government of Sri Lanka and private individuals participate jointly ;” ;
- (b) by the omission of the definitions respectively of “Ceylon Insurer”, “foreign insurance company”, and “foreign insurer” ;
- (c) by the substitution, in the definition of “Government securities” for the words “or after the appointed date, but does not include a currency note”, of the words “or after the appointed date and shall be deemed to include deposits in the National Savings Bank established under the National Savings Bank Act, No. 30 of 1971, but does not include a currency note” ;
- (d) by the substitution, for the definition of “insurer” of the following definition :—
 - “insurer” means any company incorporated under any law for the time being in force in Sri Lanka and registered for the time being under this Act as being authorized to carry on insurance business and shall be deemed to include an individual, any body corporate or unincorporated body who or which has, prior to the appointed date carried on or transacted insurance business, liability in respect of which remains unpaid or undischarged on the appointed date ;’ ;
- (e) by the insertion, immediately after the definition of “manager” of the following definition :—
 - “National Insurance Corporation” means the National Insurance Corporation established by Order made under section 3 of the Insurance (Special Provisions) Act, No. 22 of 1979 ;’ ;
- (f) by the insertion immediately after the definition of “prescribed” of the following definition :—
 - “reinsurance” means the transfer of an insurer’s liability, incurred under any contract or policy of insurance, to another insurer or insurers ;’ .

**Amend-
ment of
the Seventh
Schedule of
the princi-
pal enact-
ment.**

32. The Seventh Schedule of the principal enactment is hereby repealed and the following Schedule substituted therefor:—

"SEVENTH SCHEDULE

[Section 75A]

1. The insurance broker shall hold a policy of insurance for an amount to be specified by the Controller against professional negligence.

2. The insurance broker shall not be entitled to participate in any activity or profession which would, in the opinion of the Controller result in a conflict of interest between his duties as an insurance broker and his duties in relation to such other activity or profession."