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MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Liġi mressaq mill-Onorevoli Joseph Cassar, M.P., Ministru tal-Finanzi, Dwana u Investimenti Finanzjarji tal-Poplu u moqri għall-Ewwel darba fis-Seduta tat-30 ta' Marzu, 1981.

A BILL introduced by the Honourable Joseph Cassar, M.P., Minister of Finance, Customs and People's Financial Investments and read the First time at the Sitting of the 30th March, 1981.

ATT biex jikkontrolla u jirregola l-impriza ta' l-assigurazzjoni u biex jipprovdi għal hwejjeġ li għandhom x'jaqsmu magħha jew huma aċċillari għaliha.

AN ACT to regulate the business of insurance and to provide for matter connected therewith or ancillary thereto.

C. MIFSUD

Skrivan tal-Kamra tad-Deputati

C. MIFSUD

Clerk to the House of Representatives

ATT TA' L-1981 DWAR L-IMPRIZA TA' L-ASSIGURAZZJONI**Arrangamenti ta' Artikoli**

1. Titolu fil-qosor u bidu fis-sehħ.
2. Tifsir.
3. Liċenzi għat-tmexxija ta' l-impriża ta' assigurazzjoni.
4. Applikazzjoni għal liċenza.
5. Għoti ta' liċenzi.
6. Dwar dak li għandu x'jaqsam ma' kumpanniji liċenzjati li jeħtieġu l-approvazzjoni tal-Ministru.
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21. Setgħat tal-Ministru biex iħares l-interess pubbliku.
22. Irtir ta' kumpannija liċenzjata.
23. Sensala u bejjiegħa ta' assigurazzjoni.
24. Sospensjoni jew revoka ta' awtorità mogħtija taħt l-artikolu 23.
25. Regolamenti.
26. Fond ta' Assigurazzjoni.
27. Reati minn diretturi u *managers*.
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ABBOZZ TA' LIĠI

msejjah

ATT biex jikkontrolla u jirregola l-impriza ta' l-assigurazzjoni u biex jipprovdi għal hwejjeg li għandhom x'jaqsmu magħha jew huma anċillari għaliha.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, hareg b'liġi dan li ġej:—

Titolu fil-qosor
u bidu fis-sehh.

1. (1) Dan l-Att jista' jissejjaħ l-Att ta' l-1981 dwar l-Impriza ta' l-Assigurazzjoni.

(2) Dan l-Att għandu jibda jsehh f'dik id-data li l-Ministru responsabbli għall-finanzi jista' jstabbilixxi b'avviż fil-Gazzetta u jistgħu jiġu hekk stabbiliti dati differenti għal disposizzjonijiet differenti jew għal għanijiet differenti ta' dan l-Att.

Tifsir.

2. (1) F'dan l-Att, kemm-il darba r-rabta tal-kliem ma tehtiegħ xort'ohra —

“aġent” dwar l-impriza ta' l-assigurazzjoni tinkludi kull persuna li tagħxi f'isem, jew minflok, jew bħala rappreżentant ta', persuna oħra;

“l-assigurat” tfisser il-parti li lilha, jew li dwarha, jew li lil benefiċjarji tagħha, somma ta' flus jew hlas ieħor ikollu jithallas taħt kuntratt ta' assigurazzjoni meta tigri grajja speċifikata;

“l-assigurator” tfisser il-parti f'kuntratt ta' assigurazzjoni li tiftiehem li thallas somma ta' flus jew hlas ieħor meta tigri grajja speċifikata;

“bejjiegh ta' assigurazzjoni” għandha l-istess tifsir kif mogħti lilha bil-paragrafu (a) tas-subartikolu (6) ta' l-artikolu 23 ta' dan l-Att;

“direttur” tinkludi kull persuna li jkollha l-kariga ta' direttur ta' kumpannija, ikun x'ikun l-isem li tissejjah, li jkollha s-setgħa li sostanzjalment tagħmel l-istess funzjonijiet dwar id-direzzjoni tal-

kumpannija bħal dawk li jsiru minn direttur, u, dwar kumpannija registrata jew inkorporata barra minn Malta, tinkludi membru ta' Bord lokali u l-aġent ta' dik il-kumpannija;

"impriża ta' l-assigurazzjoni" tfisser l-egħmil ta', jew proposta li jsir, sew bħala prinċipal jew bħala aġent, xi kuntratt ta' assigurazzjoni jew rijassigurazzjoni, u tinkludi kull negozju jew kummerċ li jitmexxa dwarha jew li hu anċillari għaliha jew li hu generalment magħruf bħala assigurazzjoni;

"kumpannija" tinkludi kumpannija lokali u kumpannija barranija;

"kumpannija barranija" tfisser korp magħqud li jixbah fix-xorta tiegħu lil soċjetà anonima li jkun registrat jew inkorporat f'xi pajjiż jew taht il-liġijiet ta' xi pajjiż barra minn Malta u li jkun f'haes id-disposizzjonijiet ta' kull liġi applikabbli għal dik il-kumpannija li għal dak iż-żmien tkun fis-seħħ f'Malta, u tinkludi għaqda ta' *underwriters* individwali approvata mill-Ministru għall-finijiet ta' dan l-Att;

"kumpannija lokali" tfisser soċjetà anonima kostitwita u registrata f'Malta skond il-liġi li għal dak iż-żmien tkun fis-seħħ f'Malta;

"kuntratt ta' assigurazzjoni" tfisser ftehim fejn parti tiftiehem, b'korrispettiv, li tħallas lil jew akkont ta' parti oħra jew lil beneficijarji, somma ta' flus jew hlas ieħor, sew jekk bħala indennizz kontra telf, h̄sara jew danni jew xort'oħra, meta tigri grajja speċifikata li dwarha jkun hemm element ta' incertezza dwar meta ser tigri jew jekk tigrix;

"liċenza" dwar l-impriża ta' l-assigurazzjoni, tfisser liċenza mogħtija taht dan l-Att; u "detentur ta' liċenza" għandha tiftiehem f'dan is-sens;

"Ministru" tfisser il-Ministru responsabbli għall-finanzi, u sal-limitu ta' l-awtorità mogħtija, tinkludi kull persuna awtorizzata mill-imsemmi Ministru għal hekk;

"premium" tfisser il-hlas li jsir taht kuntratt ta' assigurazzjoni;

"preskritt" tfisser preskritt b'regolamenti taht dan l-Att;

"Qorti" tfisser il-Qorti tal-Kummerċ;

"rati ta' assigurazzjoni" għandha l-istess tifsir kif mogħti lilha bis-subartikolu (7) ta' l-artikolu 25 ta' dan l-Att;

"rijassigurazzjoni" huwa kuntratt li bih assigurat jassigura r-riskju assigurat minnu, jew parti minn dak ir-riskju, ma' assigurat ieħor;

"sensal ta' assigurazzjoni" għandha l-istess tifsir kif mogħti lilha bil-paragrafu (b) tas-subartikolu (6) ta' l-artikolu 23 ta' dan l-Att;

"spettur" tfisser persuna hekk maħtura mill-Ministru taht l-artikolu 17 ta' dan l-Att;

"uffċjal" dwar kumpannija, tinkludi direttur, *manager* u segretarju.

(2) Meta kumpannija barranija ma tmexxi f'Malta ebda parti mill-impriża ta' assigurazzjoni h̄lief dik ta' rijassigurazzjoni mqegħda magħha minn kumpannija liċenzjata, id-disposizzjonijiet ta' dan l-Att m'għandhomx japplikaw għaliha h̄lief safejn dawn japplikaw b'mod

speċifiku għal rijassigurazzjoni u safejn jiġi hekk preskritt minn żmien għal żmien.

Liċenzi
għat-tmexxi
ta' l-impriza ta'
assigurazzjoni.

3. (1) Bla ħsara għad-disposizzjonijiet ta' dan l-artikolu, ebda impriza ta' assicurazzjoni ma għandha titmexxa f'Malta ħlief jew —

(a) direttament, minn kumpannija li jkollha liċenza li tkun fis-seħħ mogħtija mill-Ministru taħt dan l-Att li tawtorizza lil dik il-kumpannija li tmexxi dik l-impriza; jew

(b) bħala aġent ta' kumpannija barranija awtorizzata kif intqal qabel, minn kumpannija lokali li hi stess ikollha liċenza li tkun fis-seħħ mogħtija mill-Ministru taħt dan l-Att li tawtorizzaha li tagħmilha ta' aġent ta' dik il-kumpannija; jew

(c) dwar rijassigurazzjoni mgħoddija minn kumpannija liċenzjata, minn kumpannija barranija approvata mill-Ministru għall-finijiet ta' dan l-Att taħt dawk il-kondizzjonijiet u għal dak iż-żmien li l-Ministru jista' minn żmien għal żmien jimponi jew jistabbilixxi jew kif jiġi preskritt, u li dwarha tkun fis-seħħ approvazzjoni bħal dik.

(2) Ebda kumpannija ma għandha tmexxi f'Malta xi parti mill-impriza ta' assicurazzjoni li ma tkunx b'mod speċifiku jew ġenerali liċenzjata li tmexxi; lanqas ma għandha tmexxi f'Malta l-impriza ta' assicurazzjoni fuq il-ħajja u mhux fuq il-ħajja, jew ġenerali, kemm-il darba ma tkunx speċifikament hekk awtorizzata bil-liċenza.

(3) Meta kumpannija lokali tkun liċenzjata biex tmexxi l-impriza ta' assicurazzjoni biss u esklużivament barra minn Malta, il-Ministru jista', suġġett għal dawk il-kondizzjonijiet u għal dak il-perijodu li jista' minn żmien għal żmien jimponi jew jistabbilixxi, jeżenta lil dik il-kumpannija mid-disposizzjonijiet kollha ta' dan l-Att jew minn waħda jew uħud minnhom, u jista' wkoll f'kull żmien jirrevoka jew jibdel kull eżenzjoni hekk mogħtija.

(4) Meta kumpannija tkun qed tmexxi l-impriza ta' assicurazzjoni f'Malta fid-data li fiha jibda jseħħ dan l-artikolu u tapplika jew, skond il-każ, kemm il-prinċipal kif ukoll l-aġent japplikaw għal liċenza fiż-żmien u xort'oħra skond id-disposizzjonijiet ta' dan l-Att, jew meta persuna, barra minn kumpannija, tkun qed tmexxi l-impriza ta' assicurazzjoni f'Malta, fid-data li fiha jibda jseħħ dan l-artikolu u tiffirma kumpannija u tapplika, jew, skond il-każ, kemm il-prinċipal kif ukoll l-aġent jiffurmaw kumpannija u japplikaw għal liċenza fiż-żmien u xort'oħra skond id-disposizzjonijiet ta' dan l-Att, allura s-subartikolu (1) ta' dan l-artikolu ma japplikax għal dik il-kumpannija jew għal dik il-persuna kemm-il darba u sakemm il-Ministru ma jgħarrafx lill-imsemmija kumpannija jew lill-imsemmija persuna li d-disposizzjonijiet ta' dak is-subartikolu japplikaw jew jirrifjuta li jagħti l-liċenza li għaliha tkun saret l-applikazzjoni, skond liema tkun l-ewwel data.

(5) Fil-każ ta' dubju dwar jekk tkunx qed titmexxa jew le impriza ta' assicurazzjoni, jew jekk din tkunx qed titmexxa f'Malta jew le, il-kwistjoni tiġi deċiża mill-Ministru u d-deċiżjoni tiegħu dwarha tkun finali u konkluziva għall-finijiet kollha ta' liġi.

(6) Kull persuna li tikser xi waħda mid-disposizzjonijiet tas-subartikolu (1) ta' dan l-artikolu, u kull persuna li xjentement tiegħu sehem, jew tghin jew tħajjar li jsir dak il-ksur, tefel dwar kull reat, penali ta' mhux inqas minn mitt lira u mhux iżjed minn elf lira u f'każ ta' reat li jkompli sejjer penali oħra ta' mhux iżjed minn elf lira għal kull jum li matulu jkompli r-reat.

4. (1) Kull kumpanija jew persuna oħra li tkun qed tmexxi impriza ta' assigurazzjoni f'Malta fid-data li fiha jibda jsehh l-artikolu 3 ta' dan l-Att u li tkun bi ħsiebha tkompli tmexxi dik l-impriza għandha, fi żmien tliet xhur wara dik id-data, fil-każ ta' kumpanija, tagħmel applikazzjoni bil-miktub lill-Ministru għal liċenza taħt dan l-Att u, fil-każ ta' persuna li ma tkunx kumpanija, tagħmel kumpanija u tagħmel applikazzjoni bil-miktub lill-Ministru għal liċenza taħt dan l-Att, fejn tgħid jekk il-liċenza li tkun qed issir applikazzjoni għaliha hijiex biex titmexxa l-impriza bħala prinċipal jew bħala aġent, u fil-każ ta' l-aħħar tagħti l-isem jew l-ismijiet tal-prinċipal, u l-klassi jew il-klassijiet ta' imprizi ta' assigurazzjoni li tkun qed issir applikazzjoni għalihom.

Applikazzjoni
għal liċenza.

(2) Kull kumpanija li tkun trid tibda impriza ta' assigurazzjoni f'Malta wara d-data li fih jibda jsehh l-artikolu 3 ta' dan l-Att għandha, qabel ma tibda xi impriza bħal dik, tagħmel applikazzjoni bil-miktub lill-Ministru għal liċenza taħt dan l-Att, fejn tgħid jekk il-liċenza li tkun qed issir applikazzjoni għaliha hijiex biex titmexxa l-impriza bħala prinċipal jew bħala aġent, u fil-każ ta' l-aħħar tagħti l-isem jew l-ismijiet tal-prinċipal, u l-klassi jew il-klassijiet ta' impriza ta' assigurazzjoni li tkun qed issir applikazzjoni għalihom.

(3) L-applikazzjonijiet kollha għal liċenza għandu jkollhom magħhom kopja tal-*memorandum* u ta' l-istatut ta' assoċjazzjoni jew dokument ieħor li bih il-kumpanija tkun ikkostitwita, li jkun fihom iż-żidiet kollha jew it-tibdil kollu li jkun sar fihom, ċertifikati kif imiss b'dikjarazzjoni magħmula minn uffiċjal għoli tal-kumpanija, u, jekk il-kumpanija tkun f'dak iż-żmien tmexxi l-impriza ta' assigurazzjoni, sew f'Malta sew x'imkien ieħor, l-applikazzjoni għandu jkollha magħha kopja ta' l-aħħar *balance sheet* jew dikjarazzjoni finanzjarja oħra li turi l-qagħda tal-kumpanija, verifikati kif imiss.

(4) Applikant għal liċenza għandu minnufih javża lill-Ministru, bil-miktub, b'kull żieda jew tibdil fil-*memorandum* jew fl-istatut ta' assoċjazzjoni jew dokument ieħor imsemmi fis-subartikolu (3) ta' dan l-artikolu u b'kull tibdil f'xi tagħrif ieħor mogħti mill-Ministru, u jagħti dettalji ta' kull żieda jew tibdil ieħor bħal dak.

(5) Meta jkun qed jikkunsidra applikazzjoni għal liċenza, il-Ministru jista' jeħtieġ lill-kumpanija li tagħti dak it-tagħrif u b'dak il-mod li jidhirlu xieraq.

5. (1) Ebda liċenza biex titmexxa l-impriza ta' assigurazzjoni bħala prinċipal ma għandha tingħata jew tinżamm taħt dan l-Att kemm-il darba — Għoti ta' liċenzi.

(a) fil-każ ta' kumpanija lokali, il-kapital azzjonarju mħallas ma jkunx mhux inqas minn żewġ miljun lira u l-kumpanija jkollha f'kull żmien, attiv mhux mittiefes li jkun għall-inqas daqs dak l-ammont;

(b) fil-każ ta' kumpanija barranija, il-kumpanija ma żzommx u ma tiggarrantix li żzomm, għas-sodisfazzjon tal-Ministru, f'Malta f'kull żmien matul iż-żmien li jkollha l-liċenza u mill-fondi tagħha stess, attiv mhux mittiefes li jammonta għal mhux inqas minn erbgħin fil-mija (40%) mid-dhul gross tal-*premiums* f'Malta fis-sena kalendarja ta' qabel wara li jitnaqqas minnu l-ammont ta' rijassigurazzjoni mgħoddi mill-kumpanija f'dik is-sena skond is-subartikolu (3) ta' l-artikolu 15 ta' dan l-Att, jew hamsin elf lira skond liema jkun l-ogħla ammont dwar assigurazzjoni mhux marbuta mal-ħajja u, dwar assigurazzjoni marbuta mal-ħajja, attiv mhux mittiefes li jammonta għal mhux inqas minn tletin u mhux iżjed

minn hamsa u sebghin fil-mija (75%) tal-fond dwar l-assigurazzjoni fuq il-ħajja li hu meħtieġ li jinżamm mill-kumpannija taħt dan l-Att, kif il-Ministru minn żmien għal żmien b'ordni jiddeċiedi.

(2) Ebda liċenza biex titmexxa l-impriza ta' assigurazzjoni bħala aġent ma għandha tingħata jew tinżamm taħt dan l-Att kemm-il darba l-kumpannija ma tkunx kumpannija lokali li l-uffiċċju prinċipali tagħha jkun sitwat f'Malta u kemm-il darba l-kapital azzjonarju mhux mittiefes tagħha ma jkunx mhux inqas minn hamsa u għoxrin elf lira.

(3) Bla ħsara għad-disposizzjonijiet ta' dan l-Att, il-Ministru jista' —

(a) jekk ikun tal-fehma li fl-interess pubbliku liċenza ma għandhiex tingħata, jew li ma għandhiex tingħata għall-klassijiet kollha tan-negozju li għalihom tkun saret applikazzjoni, u wara li jirrapporta l-kwistjoni lill-Prim Ministru, jirrifjuta li jagħti liċenza jew jirrestringi l-liċenza għal klassi waħda jew iżjed tan-negozju, u l-Ministru ma għandux għalfejn jagħti raġunijiet għax ikun hekk aġixxa;

(b) jissuġġetta kull liċenza mogħtija minnu għal dawk il-limitazzjonijiet u kondizzjonijiet li minn żmien għal żmien jidhirlu xierqa li jimponi.

Dwar dak li għandu x'jaqsam ma' kumpanniji liċenzjati li jeħtieġu l-approvazzjoni tal-Ministru.

6. (1) Kumpannija liċenzjata għandha, qabel ma tagħmel xi żieda jew tibdil fil-*memorandum* jew fl-istatut ta' assoċjazzjoni jew f'xi dokument ieħor li jikkostitwixxi l-kumpannija, tissottometti lill-Ministru l-partikolaritajiet bil-miktub taż-żieda jew tat-tibdil propost għall-approvazzjoni tiegħu bil-quddiem u ebda żieda bħal dik jew tibdil bħal dak ma għandu jsir kemm-il darba u sakemm il-Ministru ma jkunx ta l-approvazzjoni tiegħu bil-miktub:

Izda dwar kumpannija barranija d-disposizzjonijiet ta' dan is-subartikolu ma japplikawx jekk il-Ministru jkun approva arrangamenti alternattivi li ma jnaqqasux materjalment mill-għanijiet ta' dan is-subartikolu, u dawn l-arrangamenti jkunu twettqu.

(2) Meta minħabba t-trasferiment ta' xi azzjoni jew azzjonijiet f'kumpannija lokali liċenzjata, l-azzjonijiet miżmuma minn jew f'isem persuni li ma jkunux residenti f'Malta jkunu b'kolloxx jeċċedu l-għoxrin fil-mija tal-kapital azzjonarju tal-kumpannija jew, jekk dawk l-azzjonijiet flimkien ikunu diġà iktar minn dak il-perċentaġġ, fil-każ ta' xi trasferiment jew trasferiment propost ta' azzjonijiet lill-persuni mhux residenti, il-kumpannija għandha tgħarraf lill-Ministru b'kull trasferiment jew trasferiment propost bħal dak, u, minkejja kull haġa li tinsab f'kull liġi oħra, jew fil-*memorandum* jew fl-istatut ta' assoċjazzjoni tal-kumpannija jew dokument ieħor li bih tkun ġiet kostitwita, ebda trasferiment bħal dak ma għandu jiġi registrat mill-kumpannija u ebda trasferiment bħal dak ma għandu jkollu effett, sew jekk ikun registrat mill-kumpannija sew jekk le, kemm-il darba u sakemm il-Ministru ma jkunx ta l-approvazzjoni tiegħu bil-miktub fuq applikazzjoni li ssir għal hekk.

(3) Kumpannija liċenzjata għandha tgħarraf lill-Ministru b'kull arrangament jew ftehim propost għall-bejgħ jew għat-tneħħija tan-negozju tagħha, sew b'amalgamazzjoni jew xort'oħra, jew għal xi rikostruzzjoni proposta, u tissottomettihom għall-approvazzjoni tiegħu; u ebda arrangament, ftehim jew proposta bħal dawk ma għandhom jinġhataw effett, jew ikollhom effett, kemm-il darba u sakemm il-Ministru ma

jkunx ta l-approvazzjoni tiegħu bil-miktub fuq applikazzjoni li ssir għal hekk.

(4) Għall-finijiet tas-subartikolu (2) ta' dan l-artikolu —

(a) l-espressjoni "persuna li ma tkunx residenti f'Malta" u l-espressjoni "persuni mhux residenti" jinkludu kumpannija barranija u kumpannija lokali kontrollata minn persuni mhux residenti f'Malta, magħduda kumpannija, tkun fejn tkun registrata, li hi nnifisha tkun hekk kontrollata; u

(b) "azzjoni" tfisser li tagħti l-jedd għall-vot, u "kapital azzjonarju" għandha tiftiehem fl-istess sens.

(5) Kull kumpannija li tonqos li tħares xi waħda mid-disposizzjonijiet ta' dan l-artikolu tefiel, bla ħsara għal kull disposizzjoni oħra ta' dan l-Att, dwar kull reat, penali ta' mhux iżjed minn għaxart elef lira u fil-każ ta' reat li jkompli sejjer penali oħra ta' mhux iżjed minn mitt lira għal kull jum li matulu jkompli r-reat.

7. (1) Bla ħsara għad-disposizzjonijiet tas-subartikolu (2) ta' dan l-artikolu, il-Ministru jista' jirrevoka jew jissospendi liċenza —

Thassir u
sospensjoni
ta' liċenza.

(a) jekk xi dokument jew tagħrif li jinghata ma' applikazzjoni għal liċenza jew xi tagħrif mogħti dwarha jkun falz f'xi haġa ta' sustanza, jew jekk id-detentur ta' liċenza jkun heba jew jaħbi mill-Ministru, jew jonqos li javżah, b'xi dokument jew tagħrif jew b'xi tibdil li jsir fih u li jkun fid-dmir tiegħu li jiddikjara u li jgħarraf taħt dan l-Att; jew

(b) jekk id-detentur ma jkomplix imexxi l-impriza li għaliha tkun inghatat il-liċenza, jew jissospendi l-ħlas, jew ikun dikjarat fallut, jew jibda l-likwidazzjoni, jew jittransigi mal-kredituri tiegħu jew jiġi xort'oħra xolt; jew

(c) jekk id-detentur jonqos li jħares xi waħda mill-kondizzjonijiet tal-liċenza jew xi waħda mill-kondizzjonijiet ta' l-artikoli 8, 9, 10(1), 12, 13, 14, 15 u 16 ta' dan l-Att; jew

(d) jekk id-detentur li jkun qed imexxi l-impriza ta' assigurazzjoni, jonqos li jimxi skond kif ikun ġie preskritt; jew

(e) jekk id-detentur ma jkunx jista' jzomm liċenza taħt is-subartikolu (1) jew (2) ta' l-artikolu 5 ta' dan l-Att; jew

(f) fiċ-ċirkostanzi u bil-mod muri fl-artikolu 20 ta' dan l-Att.

(2) Qabel ma jirrevoka xi liċenza, il-Ministru għandu javża lid-detentur tagħha bil-ħsieb tiegħu li jagħmel hekk u għandu jagħti lill-kumpannija l-opportunità li tagħti r-raġuni għaliex il-liċenza ma għandhiex tiġi mħassra.

8. (1) Kull kumpannija lokali liċenzjata biex tmexxi l-impriza ta' assigurazzjoni bħala prinċipal għandha żzomm fond ta' riżerva u għandha, mill-profitti netti tagħha ta' kull sena u qabel ma tiddikjara xi dividend jew sehem ieħor, tittrasferixxi fil-fond ta' riżerva tagħha somma li tkun daqs mhux inqas minn fiansa u għoxrin fil-mija ta' dawk il-profitti kull meta l-ammont tal-fond ta' riżerva ikun inqas mill-kapital azzjonarju imħallas tal-kumpannija.

Fondi ta'
riżerva u fondi
oħra li
għandhom
jinżammu minn
kumpanniji ta'
assigurazzjoni.

(2) Kull kumpannija barranija liċenzjata biex tmexxi l-impriza ta' assigurazzjoni għandha żzomm f'Malta, u finvesti b'dak il-mod kif permess mill-Ministru, l-attiv mhux mittiefes imsemmi fil-paragrafu (b) tas-subartikolu (1) ta' l-artikolu 5 ta' dan l-Att; u l-fondi hekk miżmuma u investiti ma għandhomx jiġu trasferiti, miġbuda jew xort'oħra

jintmissu mingħajr awtorità tal-Ministru mogħtija bil-miktub jew sakemm il-kumpannija tkun waqfet li tkompli taħdem f'Malta u tipprova għas-sodisfazzjon tal-Ministru li ma jkollha ebda obbligazzjonijiet oħra f'Malta.

Margini ta' solvibilità.

9. (1) Kull kumpannija liċenzjata biex tmexxi l-impriza ta' assigurazzjoni bħala prinċipal, barra minn assoċjazzjoni ta' *underwriters*, għandha f'kull żmien iżzomm margini ta' solvibilità li jkun biżżejjed biex tkun tista' tmexxi x-xogħol ta' assigurazzjoni li għalih tkun liċenzjata.

(2) Kumpannija titqies li ma għandhiex margini ta' solvibilità —

(a) meta l-kumpannija tkun liċenzjata biex tmexxi xi klassi ta' impriza ta' assigurazzjoni barra minn dik ta' assigurazzjoni fuq il-ħajja jekk il-valur ta' l-attiv tagħha dwar il-klassijiet ta' l-impriza ta' assigurazzjoni li għandha liċenza li tmexxi ma jkunx jeċċedi l-ammont tal-passiv tagħha dwar dawk il-klassijiet ta' impriza jew —

(i) b'mitt elef lira jew somma ekwivalenti f'munita oħra, jew

(ii) bi f'mistax fil-mija tad-dhul tagħha mill-*premium* fl-aħħar sena finanzjarja ta' qabel,

skond liema jkun l-ikbar ammont;

(b) meta l-kumpannija tkun liċenzjata biex tmexxi impriza ta' assigurazzjoni fuq il-ħajja biss, jekk il-passiv tagħha taħt poloz tal-ħajja li ma jkunx għalqu jkun iżjed mill-ammont tal-fond tagħha dwar l-assigurazzjoni fuq il-ħajja;

(ċ) meta l-kumpannija tkun liċenzjata biex tmexxi xi klassi ta' mpriza ta' assigurazzjoni, magħduda assigurazzjoni fuq il-ħajja, jekk —

(i) dwar l-impriza tagħha ta' assigurazzjoni fuq il-ħajja ma tkunx tissodisfa l-margini ta' solvibilità meħtieġ bil-paragrafu (b) ta' dan is-subartikolu, jew

(ii) dwar il-klassijiet l-oħra kollha ta' impriza ta' assigurazzjoni ma tkunx tissodisfa l-margini ta' solvibilità meħtieġ bil-paragrafu (a) ta' dan is-subartikolu.

(3) Fil-kalkolu tal-margini ta' solvibilità meħtieġ bil-paragrafu (a) u bis-sub-paragrafu (ii) tal-paragrafu (ċ) tas-subartikolu (2) ta' dan l-artikolu —

(a) il-passiv kollu kontingenti jew li maħsub li jiġri tal-kumpannija, barra minn passiv dwar kapital azzjonarju, għandu jiġi kalkolat sabiex jiġi stabbilit l-ammont tal-passiv tal-kumpannija;

(b) id-dhul mill-*premium* tal-kumpannija, barra minn dhul minn *premium* dwar assigurazzjoni fuq il-ħajja, għal sena finanzjarja għandu jitqies li hu l-ammont nett, wara li jitnaqqas kull *premium* imħallas mill-kumpannija f'rijassigurazzjoni, tal-*premiums* riċevuti mill-kumpannija fl-aħħar sena finanzjarja ta' qabel tagħha dwar l-impriza kollha ta' assigurazzjoni, barra minn assigurazzjoni fuq il-ħajja mmexxija minnha matul is-sena.

(4) Meta l-margini ta' solvibilità ta' xi kumpannija jkun inqas minn dak li hu meħtieġ li jinżamm minnha b'dan l-artikolu, il-kumpannija għandha tagħmel tajjeb għal kull nuqqas bħal dak bla dewmien, u f'ebda każ iktar tard minn f'mistax-il jum minn meta tirċievi ordni tal-Ministru f'dak is-sens, u għas-sodisfazzjon tal-Ministru.

(5) Sakemm il-margini ta' solvibilità ta' kumpannija jkun inqas minn dak li hu meħtieġ b'dan l-artikolu, il-kumpannija ma għandha tassumi ebda riskju ġdid ikun ta' liema xorta jkun; u kull persuna li tikser xi waħda mid-disposizzjonijiet ta' dan is-subartikolu jew tas-subartikolu (4) ta' dan l-artikolu, teħel, dwar kull reat, penali ta' mhux iżjed minn għaxart elef lira, u fil-każ ta' reat li jkompli sejjer penali oħra ta' mhux iżjed minn mitt lira għal kull jum li matulu jkompli r-reat.

(6) Meta l-kumpannija liċenzjata tkun assoċjazzjoni ta' *underwriters* individwali, l-assoċjazzjoni għandha kull sena tagħti lill-Ministru —

(a) kopja ċertifikata tal-prospetti dwar l-impriża ta' assigurazzjoni mmexxija mill-membri ta' l-assoċjazzjoni ppreparata u mogħtija minnha, lill-awtorità xierqa, skond il-liġijiet tal-pajjiż li fiha tkun registrata jew inkorporata; u

(b) ċertifikat ffirmat miċ-*Chairman* ta' l-assoċjazzjoni u mill-awtorità msemmija fil-paragrafu (a) ta' dan is-subartikolu, li l-membri ta' l-assoċjazzjoni jkunu ħarsu, dwar is-sena ta' qabel, id-dispożizzjonijiet tal-liġi applikabbli għalihom fl-imsemmi pajjiż.

10. (1) Ebda kumpannija lokali liċenzjata biex tmexxi impriża ta' assigurazzjoni bħala prinċipal ma għandha tiddikjara jew tqassam jew thallas xi dividend fuq l-azzjonijiet tagħha, jew xi mgħax fuq flus riċevuti qabel sejhiet fuq xi waħda mill-azzjonijiet tagħha, hliel minn profitti li l-udituri tal-kumpannija jkunu ċertifikaw f'dikjarazzjoni mogħtija lill-Ministru bħala li baqgħu fl-idejn wara li nżammu bla mit-tiefsa —

Hlas ta'
dividendi.

(a) il-kapital kollu azzjonarju imħallas;

(b) il-margini ta' solvibilità li għandu jinżamm bl-artikolu 9 ta' dan l-Att;

(ċ) il-fondi ta' riżerva li għandhom jinżammu minnha bl-artikolu 13 ta' dan l-Att;

(d) somma biżżejjed biex jiħallsu t-telf nett kollu u l-passiv kollu.

(2) Għandu jingħata avviz lill-Ministru tad-dividendi kollha u ta' l-imgħax kollu dikjarat, imqassam jew imħallas minn kumpannija li għaliha japplika s-subartikolu (1) ta' dan l-artikolu, fi żmien hmistax-il jum minn dik id-dikjarazzjoni, dak it-tqassim jew dak il-hlas.

(3) Kull dikjarazzjoni, tqassim jew hlas magħmul bi ksur ta' xi waħda mid-disposizzjonijiet ta' dan l-artikolu jkun null u mingħajr effett u kull somma hekk riċevuta jew kreditata għandha tithallas lura lill-kumpannija mingħajr dewmien b'imgħax bir-rata ta' tmienja fil-mija.

11. (1) Sabiex tiġi stabbilita l-qagħda finanzjarja ta' kumpannija liċenzjata ma jiġi kunsidrat ebda attiv li ma hux ammissibbli.

Attiv li mhux
ammissibbli.

(2) L-attiv mhux ammissibbli ta' kumpannija liċenzjata huwa —

(a) l-avvjament, l-ismijiet tal-kummerċ u kull attiv intangibbli ieħor bħal dan;

(b) hlasijiet bil-quddiem jew differiti għal spejjeż u kummissjoni mħallsa mill-kumpannija;

(c) avvanzi lid-diretturi (barra minn self fuq polza) li ma jkunux garantiti b'mod xieraq jew li ma jkunux ġew awtorizzati bil-quddiem mill-Ministru, u avvanzi lill-impjegati, aġenti u persuni oħra li ma jkunux garantiti b'mod xieraq;

(d) xi interess f'xi waħda mill-azzjonijiet tagħha jew direttament jew permezz ta' interess tal-kumpannija f'kumpannija oħra jew xi negozju ieħor, kemm-il darba ma jkunx approvat bil-quddiem mill-Ministru;

(e) kull self jew dejn ieħor garantit bl-azzjonijiet tagħha stess;

(f) krediti li jirriżultaw minn čekkijiet, *drafts*, noti jew kambjalijiet oħra li jiġu ritornati lura mhux imħallsa;

(g) kull investment ipprojbit;

(h) kull attiv ieħor li hu hekk preskritt.

(3) Sabiex tiġi stabbilita l-qagħda finanzjarja ta' kumpannija liċenzjata, l-investimenti kollha u kull attiv ieħor għandhom jiġu stmati skond id-disposizzjonijiet ta' dan l-Att jew kif jista' jiġi preskritt.

Investimenti.

12. (1) Kumpannija liċenzjata ma għandha tagħmel ebda investment li hu investment ipprojbit jew tagħmel xi transazzjoni li hi transazzjoni pprojbita.

(2) Dawn li ġejjin huma investimenti jew transazzjonijiet ipprojbiti:

(a) self lil xi persuna waħda ta' iktar minn hamsa u għoxrin fil-mija ta' l-attiv ammissibbli kollu tal-kumpannija kif ċertifikat mill-udituri tagħha fl-aħħar kontijiet pubblikati;

(b) self bil-garanzija ta' l-azzjonijiet tal-kumpannija stess;

(c) self li ma jkunx garantit b'mod xieraq jew li ma jkunx garantit kif ikun preskritt;

(d) investimenti f'*equities* jew azzjonijiet oħra, jew f'*debentures* jew *bonds*, f'xi jew ta' xi kumpannija jew istituzzjoni waħda, li jkunu iżjed minn għaxra fil-mija, jew dak il-perċentaġġ ieħor li l-Ministru jista' japprova, ta' l-attiv ammissibbli kollu tal-kumpannija kif ċertifikat mill-udituri tal-kumpannija fl-aħħar kontijiet pubblikati tagħha;

(e) investimenti fi proprjetà immobbli jew mobbli projbiti b'regolamenti magħmula taht dan l-Att jew li jkunu iżjed mill-ammonti preskritti;

(f) investimenti f'muniti barranin, jew f'attiv espress f'dawk il-muniti, li jkunu iżjed minn dawk l-ammonti u bi ksur ta' dawk id-disposizzjonijiet li jkunu preskritti;

(g) kull investment ieħor jew transazzjoni oħra li jkun preskritt.

(3) Kull investment ipprojbit magħmul u kull transazzjoni pprojbita li ssir minn kumpannija liċenzjata jkunu nulli u mingħajr effett, u jkun id-dmir tal-kumpannija li tiegħu dawk il-passi meħtieġa sabiex tqiegħed kollox fl-istat ta' qabel.

Riżervi ta' kumpanniji ta' assigurazzjoni.

13. (1) Kull kumpannija liċenzjata biex tmexxi l-impriża ta' assigurazzjoni fuq il-hajja bħala prinċipal għandha kull sena tistabbilixxi r-responsabbiltà tagħha dwar dik l-impriża li għaliha għandha tagħmel riżerva f'ammont li jkun daqs il-valur nett kollu f'daqqa tal-poloż kollha, židiet għalihom, dividendi mhux imħallsa u l-obbligazzjonijiet l-oħra kollha pendenti fil-wieħed u tletin ta' Diċembru tas-sena minnufih qabel.

(4) Ebda kumpannija liċenzjata biex tmexxi l-impriza ta' assigurazzjoni fuq il-ħajja bħala prinċipal ma għandha tirrijassigura r-riskju kollu tagħha fuq xi ħajja individwali jew ħajjet flimkien jew sostanzjalment l-assigurazzjonijiet tagħha kollha li jkunu fis-seħħ, mingħajr qabel ma tkun applikat għal u kisbet il-permess bil-miktub tal-Ministru.

Sena
finanzjarja u
pubblikazzjoni
ta' kontijiet.

16. (1) Kull kumpannija lokali liċenzjata taħt dan l-Att biex tmexxi l-impriza ta' assigurazzjoni bħala prinċipal jew bħala aġent għandha tispicċa s-sena finanzjarja tagħha fil-wieħed u tletin ta' Diċembru ta' kull sena, u għandha, mhux iktar tard minn erba' xhur mill-għeluq tas-sena finanzjarja tagħha —

- (a) tibgħat lill-Ministru; u
- (b) tippubblika f'zewġ gazzetti lokali li joħorġu kuljum li minnhom waħda tiġi pubblikata bil-Malti u l-oħra bl-Ingliż; u
- (ċ) tesponi f'post prominenti f'kull wieħed mill-uffiċċji u ferġat tagħha f'Malta u tħalli hekk esposta matul it-tnax-il xahar li jiġu wara,

kopja tal-karta tal-bilanċ totali tagħha u tal-kont tal-qliegħ u telf għal dik is-sena finanzjarja li jagħtu l-qagħda eżatta tal-kumpannija fl-egħluq ta' dik is-sena u dawk id-dettalji li jistgħu jkunu preskritti u li jsiru fil-forma preskritta jew xort'oħra f'forma approvata mill-Ministru u li jagħtu d-dettalji meħtieġa minnu:

Iżda l-paragrafu (b) ta' dan is-subartikolu ma japplikax għal kumpannija liċenzjata biex tmexxi l-impriza ta' assigurazzjoni bħala aġent.

(2) Kull kumpannija barranija liċenzjata taħt dan l-Att biex tmexxi l-impriza ta' assigurazzjoni bħala prinċipal għandha, mhux iktar tard minn sitt xhur mill-egħluq tas-sena finanzjarja tagħha —

- (a) tibgħat lill-Ministru; u
- (b) tippubblika f'zewġ gazzetti lokali li joħorġu kuljum li minnhom waħda tiġi pubblikata bil-Malti u l-oħra bl-Ingliż; u
- (ċ) tesponi f'post prominenti f'kull wieħed mill-uffiċċji u ferġat tagħha f'Malta u tħalli hekk esposta matul it-tnax-il xahar li jiġu wara,

kopja tal-karta tal-bilanċ totali tagħha u tal-kont tal-qliegħ u telf għal dik is-sena finanzjarja li jagħtu l-qagħda eżatta tal-kumpannija fl-egħluq ta' dik is-sena, u kull karta tal-bilanċ bħal dik u kont tal-qliegħ u telf bħal dak għandu jkollu miegħu dikjarazzjoni dwar l-impriza tagħha f'Malta magħmula fil-forma preskritta u li tagħti d-dettalji preskritti jew li xort'oħra tkun magħmula fil-forma approvata mill-Ministru u li tagħti d-dettalji meħtieġa minnu.

(3) Kull kumpannija liċenzjata biex tmexxi l-impriza ta' assigurazzjoni bħala aġent għandha, mhux iktar tard minn sitt xhur mill-egħluq tas-sena finanzjarja tal-prinċipal tagħha, tesponi f'post prominenti f'kull wieħed mill-uffiċċji tagħha u tħalli hekk esposta matul it-tnax-il xahar li jiġu wara, kopja ta' kull karta tal-bilanċ u tal-kont tal-qliegħ u telf u tad-dikjarazzjoni meħtieġa li tintbagħat lill-Ministru minn kull wieħed mill-prinċipali tagħha skond dan l-artikolu.

(4) Kull karta tal-bilanċ bħal dik u kont tal-qliegħ u telf bħal dak u kull dikjarazzjoni bħal dik għandha tkun ċertifikata minn persuna li hi approvata bħala uditur skond l-artikolu 17 ta' dan l-Att.

(5) Il-kopja ta' kull karta tal-bilanċ, tal-kont tal-qliegħ u telf jew dikjarazzjoni mibgħuta lill-Ministru għandu jkollha magħha rapport minn uditur magħmul mill-uditur approvat li jiċċertifika l-karta tal-bilanċ, il-kont jew dikjarazzjoni li għalihom jirreferi r-rapport.

(6) Kull kumpannija li tikser xi waħda mid-disposizzjonijiet ta' dan l-artikolu tehel dwar kull reat penali ta' mhux iżjed minn elf lira u penali oħra ta' mhux iżjed minn mitt lira għal kull jum li matulu jkompli r-reat.

17. (1) Kull kumpannija liċenzjata għandha taħtar kull Udituri. sena uditur approvat jew udituri approvati li d-dmir tagħhom ikun biex jirrapportaw dwar il-kontijiet tal-kumpannija eżaminati minn-hom u dwar kull karta tal-bilanċ u kont tal-qliegħ u telf, u dwar kull dikjarazzjoni li għandha x'taqsam ma' l-impriża tal-kumpannija f'Malta, ippreparati mill-kumpannija.

(2) Jekk kumpannija liċenzjata tonqos, milli taħtar uditur kif meħtieġ bis-subartikolu (1) ta' dan l-artikolu jew f'xi żmien tonqos milli timla' xi vakanza fil-kariga ta' uditur, il-Ministru jkollu s-setgħa li jaħtar uditur għal dik il-kumpannija u għandu jistabbilixxi r-rimunerazzjoni li tiffhallas mill-kumpannija lil dak l-uditur.

(3) Ir-rapport ta' l-udituri għandu jkollu dikjarazzjoni dwar il-hwejjeg li ġejjin:

(a) jekk kisbux l-informazzjoni u l-ispjegazzjonijiet kollha li skond l-aħjar tagħrif u twemmin tagħhom kienu meħtieġa għall-iskop tal-verifika tagħhom;

(b) jekk, fil-fehma tagħhom, kienux jinżammu kotba xierqa mill-kumpannija, safejn jidher mill-eżami tagħhom ta' dawk il-kotba, u rendikontijiet xierqa għall-iskop tal-verifika tagħhom ikunux ġew riċevuti minn fergħat li huma ma jkunux żaru;

(ċ) jekk il-karta tal-bilanċ u l-kont tal-qliegħ u telf, jew id-dikjarazzjoni tal-kumpannija trattati fir-rapport ikunux jaqblu mal-kotba tal-kontijiet u rendikontijiet;

(d) jekk, fil-fehma tagħhom u skond l-aħjar tagħrif tagħhom u skond l-ispjegazzjonijiet mogħtija lilhom, il-kontijiet im-semmija jagħtux l-informazzjoni meħtieġa minn kull liġi li tista' minn żmien għal żmien tkun fis-seħħ bil-mod hekk meħtieġ u jagħtux wiri veru u ġust, fil-każ tal-karta tal-bilanċ ta' l-affarijiet tal-kumpannija kif ikunu fl-aħħar tas-sena finanzjarja tagħha, fil-każ tal-kont tal-qliegħ u telf tal-qliegħ u telf għas-sena finanzjarja, u fil-każ ta' dikjarazzjoni tan-negożju tal-kumpannija f'Malta dwar dik l-impriża għas-sena finanzjarja;

(e) jekk id-diversi htigiet ta' dan l-Att dwar il-kumpannija jkunux tharsu, u jekk ikunux saru l-provedimenti għal dak l-għan.

(4) Kull uditur ta' kumpannija liċenzjata jkollu dritt ta' aċċess fil-hinijiet kollha għall-kotba u għall-kontijiet u dokumenti oħra tal-kumpannija u jkollu dritt li jeħtieġ minn kull uffiċċju tal-kumpannija dik l-informazzjoni u dawk l-ispjegazzjonijiet li jidhirlu meħtieġa għall-qadi ta' dmirijiet ta' l-udituri.

(5) Għall-finijiet ta' dan l-Att, uditur approvat huwa persuna kwalifikata taħt il-liġijiet li għaż-żmien ikunu fis-seħħ biex tagħmilha

ta' uditur tal-kumpannija u li jkollha l-awtorizzazzjoni tal-Ministru li tagħmilha ta' uditur ta' kumpannija ta' assigurazzjoni.

(6) Minkejja kull waħda mid-disposizzjonijiet tas-subartikoli ta' qabel dan, il-Ministru jista', fil-każ ta' kumpannija barranija, japprova dawk l-arranġamenti alternattivi li jidhirlu xierqa u li ma jnaqqas b'mod sostanzjali mill-għanijiet ewlenin ta' dawn l-artikoli, u meta dawk l-arranġamenti jkunu twettqu d-disposizzjonijiet ta' dan l-artikolu ma japplikawx sa fejn dawk l-arranġamenti jkunu saru minflokhom.

(7) Safejn id-disposizzjonijiet ta' dan l-artikolu ma jaqblux mad-disposizzjonijiet ta' l-Ordinanza ta' l-1962 dwar Soċjetajiet Kummerċjali, id-disposizzjonijiet ta' dan l-artikolu għandhom jipprevalu u d-disposizzjonijiet ta' l-imsemmija Ordinanza għandhom, safejn ma jkunux jaqblu, ma japplikawx għal kumpanniji liċenzjati.

Eżami ta'
l-affarijiet
ta' kumpannija
liċenzjata.

18. (1) Il-Ministru jista' jinnomina spettur wieħed jew iżjed kompetenti biex jeżaminaw l-affarijiet ta' kumpannija liċenzjata biex tmexxi l-impriza ta' assigurazzjoni f'dawk l-intervalli jew f'dawk iż-żminijiet li jista' jordna, u biex jirrapporta fuqhom.

(2) Ikun id-dmir ta' l-uffiċjali u ta' l-aġenti kollha ta' kumpannija liċenzjata li tkun qed tiġi eżaminata li jipproduċu lill-ispettur il-kotba u d-dokumenti kollha tal-kumpannija jew li għandhom x'jaqsmu mal-kumpannija u xort'oħra li jaġtu lil spettur l-għajnuna kollha dwar l-eżami li huma b'mod raġonevoli jistgħu jaġtu; u jekk uffiċjal jew aġent ta' kumpannija jirrifjuta li jipproduċi xi ktieb jew dokument li skond dan l-artikolu huwa dmir tiegħu li jipproduċi, jew jirrifjuta li jwieġeb għal xi mistoqsija li ssirlu minn spettur dwar l-affarijiet tal-kumpannija, spettur jista' b'rikors jirreferi l-kwistjoni lill-Qorti u ma' dan il-Qorti għandha tistharreg il-każ, u wara li tkun semgħet il-provi miġjuba u s-sottomissjonijiet magħmula dwar il-każ, twaħhal piena lil min jaġmel l-offiża bl-istess mod daqslikieku kien ħati ta' disprezz tal-Qorti.

(3) F'dan l-artikolu, kull riferenza għal uffiċjali jew għal aġenti għandha tinkludi riferenza għal uffiċjali jew aġenti tal-imghoddi u prezenti u l-espressjoni "aġenti" dwar kumpannija liċenzjata tinkludi l-bankiera u l-udituri tal-kumpannija.

(4) Spettur għandu jingħata wkoll aċċess għal kull kont, rendikont jew informazzjoni oħra dwar kumpannija liċenzjata li jkunu fil-pussess jew taħt il-kontroll tal-Ministru.

Rapporti minn
spetturi.

19. (1) Spettur jista', u jekk hekk ordnat mill-Ministru għandu, jaġmel rapport *interim* lill-Ministru, u meta jispiċċa mill-eżami jaġmel rapport finali.

(2) Il-Ministru għandu jibgħat lill-kumpannija kopja ta' kull rapport magħmul minn spettur dwar l-affarijiet tagħha.

(3) Il-Ministru jkollu s-setgħa li jordna li l-ispejjeż kollha ta', u li huma inċidentali għal, eżami, jew parti minnhom kif jidhirlu xieraq, jithallsu mill-kumpannija; u kull somma hekk dovuta tingabar mill-Gvern bħala dejn ċivili dovut lilu,

20. Minkejja kull haġa li tinsab fl-artikoli 17A u 18 ta' dan l-Att, meta kumpannija liċenzjata taħseb li x'aktarx ma tkunx tista' tissodisfa l-obbligazzjonijiet tagħha, jew li tkun se tissospendi l-ħlas, jew meta l-kumpannija tkun issospendiet il-ħlas, hija għandha minnufih tgħarraf lill-Ministru bil-miktub b'dan il-fatt.

Kumpanniji li ma jkunux jistgħu jissodisfaw l-obbligazzjonijiet tagħhom.

21. (1) Jekk, sew minn rapport magħmul taħt l-artikolu 18 ta' dan l-Att kemm xort'oħra, ikun jidher lill-Ministru li kumpannija liċenzjata tkun qed tmexxi l-impriza tagħha b'mod li jkun ta' detriment jew ta' periklu għall-pubbliku jew għad-detenturi tal-poloż jew li xi wieħed mill-fatti msemmija fl-artikolu 19 ta' dan l-Att x'aktarx ikun se jiġri jew jeżisti, sew jekk il-kumpannija tkun avżat lill-Ministru taħt dak l-artikolu u sew jekk le, jew li l-kumpannija tkun kisret jew naqset milli tħares xi waħda mid-disposizzjonijiet ta' dan l-Att jew ta' xi regolament magħmul bis-saħħa tiegħu, u l-ksur ikun hekk, fil-fehma tal-Ministru, li jisthoqqlu li tittiehed azzjoni taħt dan l-artikolu, il-Ministru jista' jissospendi jew jirrevoka kull liċenza maħruġa taħt dan l-Att, u ebda negozju ġdid ma għandu wara dan jitmexxa minn dik il-kumpannija, jew għal dik il-kumpannija mill-aġenti tagħha jew minn xi persuna oħra, kemm-il darba u sakemm dik is-sospenzjoni ma tkunx ġiet revokata jew il-liċenza ma tkunx ingħatat lura mill-Ministru:

Setgħat tal-Ministru biex iħares l-interess pubbliku.

Iżda l-Ministru ma għandux jirrevoka liċenza jekk qabel ma jkunx ta lid-detentur opportunità li jagħmel sottomissjonijiet għaliex il-liċenza ma għandhiex tiġi revokata.

(2) F'kull wieħed mill-kazijiet li l-Ministru jista' jissospendi jew jirrevoka liċenza taħt is-subartikolu (1) ta' dan l-artikolu, il-Ministru jista', minflok sospenzjoni jew revoka bħal dik jew b'żieda magħha, u bla ħsara għas-setgħat tiegħu li jissospendi jew jirrevoka liċenza, jipproċedi b'wieħed jew iktar mill-modi li ġejjin:

(a) jeħtieġ lill-kumpannija biex minnufih tiegħu dawk il-passi li jidhirlu meħtieġa sabiex il-haġa tirrangja ruħha jew tiġi rimedjata;

(b) jaħtar persuna biex tagħti pariri lill-kumpannija biex titmexxa b'mod xieraq l-impriza tagħha;

(c) jaħtar persuna biex tiegħu f'idejha l-attiv tal-kumpannija, jew xi parti minnu, sabiex jitharsu l-interessi tad-detenturi ta' poloż, kredituri u azzjonisti tal-kumpannija;

(d) jaħtar persuna biex tiegħu l-kontroll ta' l-impriza tal-kumpannija u biex jew tmexxi dik l-impriza jew tagħmel dik il-funzjoni jew dawk il-funzjonijiet l-oħra dwar dik l-impriza, jew parti minnha, kif jiġi ordnat mill-Ministru;

(e) jeħtieġ lill-kumpannija biex tillikwida u tagħlaq l-impriza tagħha jew biex tillikwida u tagħlaq l-impriza tagħha f'Malta;

(f) jaħtar persuna biex tagħmilha ta' likwidatur sabiex tillikwida u tagħlaq in-negozju;

(g) jistabbilixxi r-rimunerazzjoni li għandha tiffallas mill-kumpannija lil kull persuna maħtura taħt dan l-artikolu;

(h) jagħmel kull haġa oħra jew jeħtieġ li ssir kull haġa oħra li jidhirlu xierqa fiċ-ċirkostanzi;

u wara li jkun ipproċeda b'xi mod jew aktar minn mod wieħed kif intqal qabel, il-Ministru jista' jkompli jipproċedi b'xi wieħed jew iktar minn dawk il-modi, sew b'zieda magħhom jew minflokhom.

(3) Meta persuna tinħatar mill-Ministru —

(a) taħt il-paragrafu (b) tas-subartikolu (1) ta' dan l-artikolu, ikun id-dmir tal-kumpannija li taġixxi skond il-parir mogħti lilha minn dik il-persuna kemm-il darba u sakemm il-Ministru, fuq sotto-missjonijiet li jsirulu, ma jordnax xort'oħra;

(b) taħt il-paragrafu (ċ) tas-subartikolu (1) ta' dan l-artikolu, il-kumpannija għandha tikkonsenja lil dik il-persuna l-attiv kollu li jkun fil-pussess tagħha, u s-setgħat, il-funzjonijiet u d-dmirijiet kollha tal-kumpannija dwar dak l-attiv, sew jekk eżerċitabbli mill-kumpannija f'laqgħa ġenerali, jew mid-Diretturi, jew minn xi persuna oħra, magħduda r-rappreżentanza legali u ġuridika tal-kumpannija, ikunu eżerċitabbli minn u vestiti fil-persuna maħtura taħt l-imsemmi paragrafu bl-esklużjoni ta' kull persuna oħra;

(ċ) taħt il-paragrafu (d) tas-subartikolu (1) ta' dan l-artikolu, il-kumpannija għandha tissottometti l-impriza tagħha għall-kontroll ta' dik il-persuna u għandha tagħtiha dawk il-faċilitajiet li tkun teħtieġ lill-kumpannija li tipprovdilha sabiex tmexxi dik l-impriza jew sabiex taqdi l-funzjonijiet mogħtija lilha taħt l-imsemmi paragrafu; u s-setgħat, il-funzjonijiet u d-dmirijiet kollha tal-kumpannija, sew jekk eżerċitabbli mill-kumpannija f'laqgħa ġenerali, jew mid-Diretturi jew minn xi persuna oħra, magħduda r-rappreżentanza legali u ġuridika tal-kumpannija fil-hwejjeġ kollha, ikunu eżerċitabbli minnha u vestiti fiha bl-esklużjoni ta' kull persuna oħra;

(d) taħt il-paragrafu (f) tas-subartikolu (1) ta' dan l-artikolu, dik il-persuna tkun il-likwidatur tal-kumpannija għall-finijiet kollha tal-liġi bl-esklużjoni ta' kull persuna oħra.

(4) Kull kumpannija jew persuna oħra li tonqos li tfares xi waħda mid-disposizzjonijiet ta' dan l-artikolu jew xi haġa meħtieġa taħtu u kull persuna li b'xi mod tfixkel persuna maħtura taħt is-subartikolu (2) ta' dan l-artikolu fil-qadi ta' xi waħda mill-funzjonijiet, setgħat jew dmirijiet taħt dan l-artikolu, tehel għal kull reat penali ta' mhux iżjed minn elf lira u fil-każ ta' reat li jkompli sejjer penali oħra ta' mhux iżjed minn mitt lira għal kull jum li matulu jkompli r-reat.

(5) Dwar kumpannija barranija l-uffiċċji u l-fergħat ta' dik il-kumpannija f'Malta għandhom, jekk il-Ministru hekk jordna u sal-limitu li hekk jordna, jitqiesu li jikkostitwixxu kumpannija separata.

Irtir ta'
kumpannija
liċenzjata.

22. (1) Kumpannija ma għandhiex minn jeddha tiegħa milli tmexxi l-impriza li hi liċenzjata li tmexxi hliet bil-permess tal-Ministru mogħti fuq applikazzjoni li ssirlu b'dak il-mod li jiġi preskritt u hliet skond dawk il-kondizzjonijiet li l-Ministru jidhirlu xieraq li jimponi:

(2) Il-Ministru ma għandux jagħti permess taħt is-subartikolu (1) ta' dan l-artikolu kemm-il darba —

(a) id-dritt preskritt ma jkunx tħallas; u

(b) ma jkunx qabel ta dik il-pubbliċità lill-applikazzjoni u lil kull fatt rilevanti li għandhom x'jaqsmu magħha kif jidhirlu xieraq jew kif ikunu ġew preskritti; u

(c) il-kumpannija ma tkunx issodisfat l-obbligazzjonijiet kollha tagħha f'Malta lejn id-detenturi tal-poloż u l-kredituri, sew bi flas, rijassigurazzjoni jew xort'oħra, b'mod aċċettabbli għall-Ministru.

(3) Kull kumpannija li tonqos li tħares xi waħda mid-disposizzjonijiet ta' dan l-artikolu jew xi kondizzjoni mposta bis-saħħa tiegħu, tehel għal kull reat penali ta' mhux iżjed minn għaxart elf lira.

23. (1) Ebda kumpannija liċenzjata biex tmexxi l-impriża ta' assigurazzjoni f'Malta, sew bħala prinċipal sew bħala aġent, ma għandha tħallas kummissjoni jew kumpens ieħor lil xi persuna għal servizzi mogħtija lilha biex tikseb xogħol ta' assigurazzjoni kemm-il darba dik il-persuna ma tkunx awtorizzata mill-Ministru biex tagħmilha ta' sensal ta' assigurazzjoni jew ta' bejjieġh ta' assigurazzjoni, jew ma tkunx xort'oħra awtorizzata mill-Ministru taħt regolamenti magħmula skond dan l-Att biex taġixxi f'dik il-kariga l-oħra li tagħtiha d-dritt li tirċievi flas kif intqal qabel.

Sensala
u bejjieġha ta'
assigurazzjoni.

(2) Ebda persuna ma għandha tagħmilha ta' sensal ta' assigurazzjoni jew bejjieġh ta' assigurazzjoni kemm-il darba ma jkollhiex fil-pussess tagħha awtorità mill-Ministru li tkun fis-seħħ biex taġixxi f'dik il-kariga.

(3) Ebda awtorità ma għandha tiġi mafruga taħt dan l-artikolu hlief fuq applikazzjoni magħmula b'dak il-mod u li jkun fiha dak it-tagħrif li jiġi preskritt jew li l-Ministru jista' xort'oħra jeħtieġ u kemm-il darba ma jkollhiex magħha d-dritt preskritt, u, fil-każ ta' applikazzjoni għal bejjieġh ta' assigurazzjoni, kemm-il darba l-applikazzjoni ma tkunx approvata u kontrofirmata mill-kumpannija li għaliha l-applikant ikun jixtieq jaġixxi.

(4) Il-Ministru ma għandux jaġhti awtorità lil xi persuna biex tagħmilha ta' sensal ta' assigurazzjoni kemm-il darba dik il-persuna ma tkunx kumpannija lokali u ma jkollhiex favur tagħha kuntratt ta' assigurazzjoni aċċettabbli mill-Ministru li tindennizzaha kontra kull responsabbiltà li hi, jew kull persuna mpoġegata minnha jew xort'oħra taġixxi għaliha, tista' tidhol fiha minhabba xi għemil negligenti, żball jew nuqqas fit-tmexxija ta' l-impriża tagħha bħala sensal ta' assigurazzjoni għal ammont ta' mhux inqas minn mitejn u hamsin elf lira jew dik is-somma akbar li l-Ministru jidhirlu xierqa meta titqies ix-xorta tax-xogħol li jkun se jsir; u kull awtorità mogħtija mill-Ministru taħt dan l-artikolu tieqaf mis-seħħ malli l-persuna li favur tagħha tkun ingħatat tieqaf milli tkun kumpannija jew ma tkunx aktar indennizzata b'assigurazzjoni kif intqal qabel.

(5) Bla ħsara għad-disposizzjonijiet ta' dan l-Att, il-Ministru jista' jaġhti jew jirrifjuta li jaġhti jew li iġedded jew jirrifjuta li iġedded, awtorità taħt dan l-artikolu, u jekk jirrifjuta li jaġhti jew iġedded dik l-awtorità ma jkunx meħtieġ li jaġhti raġunijiet għax għamel hekk. Il-Ministru jista' wkoll jaġhti jew iġedded awtorità għal żmien speċifikat, u jista' jissuġġetta kull awtorizzazzjoni mogħtija jew imġedda taħt dan l-artikolu għal kull kondizzjoni jew restrizzjoni li jidhirlu xierqa. Kemm-il darba ma jiġix dikjarat xort'oħra fl-awtorizzazzjoni, awtorità mogħtija jew imġedda taħt dan l-artikolu tibqa' sseħħ sal-31 ta' Diċembru tas-sena li fiha tingħata jew tiġgedded.

(6) Kull persuna li —

(a) għal xi kummissjoni jew kumpens ieħor jew oġġett ta'

valur ikun li jkun, tħajjar jew tikseb assigurazzjoni f'isem kumpannija ta' assigurazzjoni jew tibgħat f'isem xi persuna oħra applikazzjoni għal polza jew għal kuntratt ta' assigurazzjoni lil jew mingħand dik il-kumpannija, jew toffri jew tidħol biex taġixxi fil-ftehim ta' dik l-assigurazzjoni, tkun bejjiegħ ta' assigurazzjoni għall-finijiet ta' dan l-Att;

(b) għal xi kummissjoni jew kumpens ieħor jew oġġett ta' valur ikun li jkun, taġixxi jew tghin b'xi mod biex tħajjar, jintlaħaq ftehim, jew biex isir xi kuntratt ta' assigurazzjoni jew biex jiġi assigurat riskju jew biex tinħareġ assigurazzjoni, f'isem persuna assigurata jew persuna li tkun se tiġi assigurata, barra minnha nnifisha, tkun sensal ta' assigurazzjoni għall-finijiet ta' dan l-Att.

(7) Kull persuna li taġixxi bi ksur ta' xi waħda mid-disposizzjonijiet ta' dan l-artikolu, jew ta' xi awtorità mogħtija bis-saħħa tiegħu teħel dwar kull reat penali ta' mhux iżjed minn elf lira u fil-każ ta' reat li jkompli seijer penali oħra ta' mhux iżjed minn ħamsin lira għal kull jum li matulu jkompli r-reat.

Sospensjoni
jew revoka ta'
awtorità
mogħtija taħt
l-artikolu 23.

24. (1) Awtorità mogħtija taħt l-artikolu 23 ta' dan l-Att tista' tiġi sospiża jew revokata mill-Ministru jekk, il-persuna awtorizzata —

(a) meta taaplika għal liċenza tkun tat xi informazzjoni falza jew mhux korretta f'xi haġa sostanzjali jew tkun ħbiet xi informazzjoni li kienet sostanzjali għall-applikazzjoni, jew tkun kisbet xort'oħra l-liċenza bi frodi jew b'informazzjoni ħazina;

(b) ma tibqax taġħmilha ta' sensal jew bejjiegħ, skond il-każ, jew tissospendi l-hlas iew tiġi dikjarata falluta, jew tittransiġi mal-kredituri taġħha, jew fil-każ ta' kumpannija, jew tibda l-likwidazzjoni jew xort'oħra tiġi volta;

(c) tkun naqset li tħares xi waħda mid-disposizzjonijiet ta' dan l-Att jew ta' xi regolamenti maġħmula bis-saħħa tiegħu jew il-pattijiet jew il-kondizzjonijiet ta' l-awtorizzazzjoni taġħha;

(d) tkun uriet inkompetenza fit-tmexxija ta' l-attivitaġiet taġħha taħt l-awtorità jew tkun b'xi mod għamlet xi haġa b'qerq, jew b'dizonestà jew xort'oħra b'xi mod ieħor li ma tibqax persuna li tista' tafda, u b'mod partikolari iżda bla ħsara għall-generalità ta' dak li ntqal qabel, jekk —

(i) tkun appropriat iew ħadet għall-użu taġħha jew b'mod illegali żammet flus li huma miżmuma jew li għandhom jinżammu bhala flus afdati f'idejha;

(ii) tkun f'xi haġa sostanzjali pprezentat ħazin il-pattijiet jew il-kondizzjonijiet ta' poloz iew ta' kuntratti ta' assigurazzjoni li tkun qed tipprova tbiegħ jew tkun bieġhet.

(2) Awtorità mogħtija taħt l-artikolu 23 ta' dan l-Att ma tiġix revokata mill-Ministru kemm-il darba l-persuna li lilha tkun ingħatat ma tkunx qabel ingħatat opportunità li taġħmel sottomissjonijiet għaliex m'għandhiex tiġi revokata.

Regolamenti.

25. (1) Il-Ministru jista' jagħmel regolamenti biex jikkontrolla u jirregola kull haġa dwar jew li għandha x'taqsam ma' l-impriża ta' assigurazzjoni u xort'oħra biex jagħti effett aħjar lil xi waħda jew iżjed

mid-disposizzjonijiet u mill-għanijiet ta' dan l-Att, u b'mod partikolari, iżda bla ħsara għall-generalità ta' dak li ntqal qabel, il-Ministru jista' b'dawk ir-regolamenti jikkontrolla, jirregola, jew xort'oħra jipprovdi dwar, xi waħda jew iżjed minn dawn l-affarijiet li ġejjin —

(a) kull attività dwar jew li għandha x'taqsam ma' l-impriza ta' assigurazzjoni magħduda l-htieġa ta' kull awtorità, liċenza jew permess għal dik l-attività, u l-pattijiet, il-kondizzjonijiet, is-sospenzjonijiet u r-revoka tagħhom;

(b) il-kodiċi ta' etika li għandu jithares minn kull persuna liċenzjata, awtorizzata jew xort'oħra mogħtija permess taħt dan l-Att jew xi regolamenti magħmula bis-saħħa tiegħu;

(c) kull haġa dwar jew li għandha x'taqsam ma' l-impriza ta' assigurazzjoni u poloz jew kuntratti ta' assigurazzjoni, magħduda *surveys*, sorveljanzi u aġġustamenti ta' talbiet magħmula taħt xi kuntratt jew polza bħal dawk, u biex jiġu stabbiliti r-rati ta' assigurazzjoni;

(d) attwarji u servizzi ta' attwarji, u l-persuni jew organizzazzjonijiet li jistgħu jaġixxu f'dik il-kariga;

(e) il-htigiet, dmirijiet, kondizzjonijiet jew obligazzjonijiet oħra li għandhom jitharsu minn kumpanniji ta' assigurazzjoni u minn kull persuna liċenzjata jew awtorizzata taħt dan l-Att jew xi regolament magħmul bis-saħħa tiegħu, sabiex jitmexxew b'mod xieraq u aħjar l-attivitàjiet tagħhom;

(f) kull haġa dwar jew li għandha x'taqsam mal-Fond ta' Assigurazzjoni mwaqqaf taħt l-artikolu 26 ta' dan l-Att;

(g) kull haġa li tista' jew li għandha tiġi preskritta jew ipprobita taħt xi waħda mid-disposizzjonijiet ta' dan l-Att;

(h) id-drittijiet li għandhom jingabru dwar kull haġa provduta b'dan l-Att jew taħtu jew xi regolamenti magħmula taħt dan l-artikolu;

(i) il-penalitajiet jew pjeni oħra li jistgħu jehlu l-persuni li jiksru jew jonqsu li jharsu xi disposizzjoni ta' xi regolament magħmul kif intqal qabel, liema penalitajiet ma jkunux iktar minn elf lira dwar kull reat u dwar kull reat li jkompli sejjer penali oħra ta' mhux iżjed minn mitt lira għal kull jum li matulu jkompli r-reat.

(2) Il-Ministru jista' ukoll b'regolamenti taħt dan l-artikolu jestendi u jaġmel applikabbli kull waħda mid-disposizzjonijiet ta' dan l-Att għal kull attività li fil-fehma tiegħu għandha, fil-interess pubbliku tiġi regolata b'dawk id-disposizzjonijiet.

(3) Hlief fejn xi regolament magħmul taħt dan l-artikolu ma jipprovdi għal piena anqas, kull persuna li tagħxi bi ksur ta' jew li tonqos li thares xort'oħra xi regolament bħal dak tehel penali ta' mhux iżjed minn elf lira dwar kull reat u fil-każ ta' reat li jkompli sejjer penali oħra ta' mhux iżjed minn mitt lira għal kull jum li matulu jkompli r-reat.

(4) F'dan l-artikolu, u għall-finijiet ta' kull regolamenti magħmula bis-saħħa tiegħu, "rati ta' assigurazzjoni" tfisser il-proporzjon tal-*premium* ma' l-ammont assigurat u tinkludi, skond kif ir-rabta tal-kliem teħtieġ, jew il-korrispettiv li għandu jithallas jew jintalab għal kuntratti ta' assigurazzjoni, magħduda *surety bonds*, jew l-elementi u l-fatturi li jiffurmaw il-bażi ta' kif dawn għandhom jiġu stabbiliti jew applikati, jew it-tnejn.

Fond ta' Assigurazzjoni.

26. (1) Għandu jitwaqqaf fond, li jkun magħruf u li b'dan l-Att qed jissejjaħ "Fond ta' Assigurazzjoni", għall-ħlas ta' kull talba kontra kumpannija ta' assigurazzjoni liċenzjata biex tmexxi l-impriża ta' assigurazzjoni f'Malta li tibqa' ma tithallasx minħabba insolubbiltà ta' dik il-kumpannija, u għal dawk l-għanijiet l-oħra dwar assigurazzjoni, magħdud kumpens lil vittmi ta' disgrazzji tat-traffiku, li jiġu preskritti, skond dawk il-limitazzjonijiet u restrizzjonijiet li jiġu preskritti.

(2) Il-Fond ta' Assigurazzjoni jkun magħmul mill-ħlasijiet kollha li jsiru fih taħt dan l-Att u kull regolamenti magħmula bis-saħħa tiegħu, u mill-attiv u mid-dħul l-ieħor kollu tiegħu.

(3) Il-kumpanniji kollha liċenzjati biex imexxu l-impriża ta' assigurazzjoni f'Malta għandhom jikkontribwixxu għall-Fond ta' Assigurazzjoni dawk l-ammonti li jiġu preskritti, u jistgħu ikunu hekk dovuti ammonti differenti minn kumpanniji li jagħmlu xorta differenti ta' impriża ta' assigurazzjoni.

(4) Il-Fond ta' Assigurazzjoni għandu jkun amministrat u xort'oħra jitmexxa skond regolamenti magħmula taħt l-artikolu 25 ta' dan l-Att:

Iżda għandhom jiġu trattati separatament il-ħlasijiet li jsiru fil-fond minn kumpanniji ta' assigurazzjoni fuq il-ħajja, li għandhom jiġu wżati biss għal ħruġ li jsir dwar kumpanniji ta' assigurazzjoni fuq il-ħajja, u il-ħlasijiet li jsiru fih minn kumpanniji ta' assigurazzjoni mhux marbuta mal-ħajja, li għandhom jiġu wżati biss għal ħruġ li jsir dwar dawk il-kumpanniji ta' assigurazzjoni mhux marbuta mal-ħajja:

Iżda wkoll ma għandu jsir ebda ħlas mill-Fond ta' Assigurazzjoni lil xi persuna li tkun proprjetarja ta' jew tikkontrolla, direttament jew indirettament, ħamsa u għoxrin fil-mija jew iżjed tal-jeddijiet jew azzjonijiet li jagħtu dritt għal vot ta' l-assigurat insolventi.

Reati minn diretturi u managers.

27. Kull persuna li tkun direttur jew *manager* jew uffiċjal ieħor ta' kumpannija —

(a) li tonqos li tiegħu l-passi kollha xierqa biex jiġi żgurat li l-kumpannija thares kull waħda mid-disposizzjonijiet ta' dan l-Att jew ta' xi regolamenti magħmula bis-saħħa tiegħu jew ta' xi liċenza, awtorità jew permess maħruġ bis-saħħa tagħhom; jew

(b) li tonqos li tiegħu l-passi kollha xierqa biex jiġi żgurat li d-dikjarazzjonijiet jew informazzjoni oħra mogħtija taħt xi waħda mill-imsemmija disposizzjonijiet,

tehel għal kull reat, u bla ħsara għal kull penali oħra li għandha tithallas taħt dan l-Att jew taħt xi regolamenti magħmula bis-saħħa tiegħu, penali ta' mhux iżjed minn ħamest elef lira, jew, jekk tinsab ħatja mill-Qorti tal-Maġistrati tal-Pulizija Ġudizzjarja, multa ta' mhux iżjed minn għaxart elef lira jew prigunerija għal żmien ta' mhux iżjed minn sena jew dik il-multa u prigunerija flimkien.

Ġbir ta' penalitajiet.

28. (1) Bla ħsara għad-disposizzjonijiet tas-subartikolu (2) ta' dan l-artikolu, il-penalitajiet kollha taħt dan l-Att għandhom, fuq it-talba ta' l-Avukat Ġenerali b'ċitazzjoni fil-Qorti tal-Kummerċ, jiġu stabbiliti mill-Qorti u jingabru bħal dejn ċivili dovut lill-Gvern.

(2) Meta l-Avukat Ġenerali jagħti avviż bil-miktub lil xi persuna li dik il-persuna għandha tħallas penali taħt dan l-Att, u fih jispeċifika x-xorta tar-reat u jindika l-ammont dovut bħala penali dwar dak ir-reat, u l-persuna li lilha jingħata l-avviż ma togġezzjonax, b'ogġezzjoni bil-miktub mogħtija lill-Avukat Ġenerali, għall-avviż fiż-żmien (li ma jkunx inqas minn hmistax-il jum mill-ogħti ta' l-avviż) speċifikat fih għall-hlas ta' l-imsemmi ammont, jew tiftiehem li tħallas, jew fil-fatt tħallas, dak l-ammont, il-persuna li lilha jingħata l-avviż għandha titqies għall-finijiet kollha li tkun wehlet penali taħt dan l-Att u l-ammont indikat kif intqal qabel bħala dovut għall-penali għandu jitqies għall-finijiet kollha li hu l-penali dovut u li għandu jithallas taħt dan l-Att dwar ir-reat speċifikat fih.

Għanijiet u Ragunijiet

L-Għan ta' dan l-Abbozz huwa li jirregola l-impriza ta' assigurazzjoni billi din tkun sugġetta għall-ghoti ta' liċenza u billi jipprovdi għat-tmexxija ta' dik l-impriza b'mod li tingħata aktar sigurtà lil detenturi ta' poloz u lil kredituri ta' kumpanniji ta' assigurazzjoni.

INSURANCE BUSINESS ACT, 1981

Arrangement of Sections

1. Short title and commencement.
2. Interpretation.
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4. Application for a licence.
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6. Matters concerning licensed companies requiring Minister's approval.
7. Revocation or suspension of licence.
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9. Margin of solvency.
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12. Investments.
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16. Financial year and publication of accounts.
17. Auditors.
18. Examination of the affairs of a licensed company.
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21. Powers of the Minister to protect the public interest.
22. Withdrawal of a licensed company.
23. Insurance brokers and insurance salesmen.
24. Suspension or revocation of authority granted under section 23.
25. Regulations.
26. Security Fund.
27. Offences by directors and managers.
28. Recovery of penalties.

A BILL
entitled

AN ACT to regulate the business of insurance and to provide for matter connected therewith or ancillary thereto.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the Insurance Business Act, 1981. Short title and commencement.

(2) This Act shall come into force on such date as the Minister responsible for finance, may, by notice in the Gazette, appoint and different dates may be so appointed for different provisions or different purposes of this Act.

2. (1) In this Act, unless the context otherwise requires — Interpretation.

“agent” in respect of the business of insurance includes any person acting in the name, or on behalf, or as representative, of another person;

“business of insurance” means the making or proposing to make, whether as principal or as agent, any contract of insurance or re-insurance, and includes any business carried on in connection therewith or as ancillary thereto or which is generally recognised as insurance;

“company” includes a local company and a foreign company:

“contract of insurance” means an agreement in which one party agrees, for a consideration, to pay to or for the account of another party or to beneficiaries, a sum of money or other consideration, whether by way of indemnity against loss, damage or liability or otherwise, on the happening of a specified event with respect to which there is an element of uncertainty as to when or whether it will take place;

“Court” means the Commercial Court;

“director” includes any person occupying the position of a director of a company, by whatsoever name he may be called, empowered to carry out substantially the same functions in relation to the direction of the company as those carried out by a director, and, in respect of a company registered or incorporated outside Malta, includes a member of a local board and the agent of that company;

“foreign company” means a body corporate similar in nature to a limited liability company which is registered or incorporated in and under the law of any country outside Malta and which has complied with the provisions of any law for the time being in force in Malta applicable to such company, and includes an association of individual underwriters approved by the Minister for the purposes of this Act;

“inspector” means a person appointed as such by the Minister under section 17 of this Act;

“insurance broker” has the meaning assigned to it by paragraph (b) of subsection (6) of section 23 of this Act;

“insurance rates” has the meaning assigned to it by subsection (7) of section 25 of this Act;

“insurance salesman” has the meaning assigned to it by paragraph (a) of subsection (6) of section 23 of this Act;

“insured” means the party to whom, or on whose account, or to whose beneficiaries, a sum of money or other consideration is payable under a contract of insurance on the happening of a specified event;

“insurer” means the party to a contract of insurance who agrees to pay a sum of money or other consideration on the happening of a specified event;

“licence” in relation to the business of insurance, means a licence granted under this Act; and “licencee” shall be construed accordingly;

“local company” means a limited liability company constituted and registered in Malta in accordance with the law for the time being in force in Malta;

“Minister” means the Minister responsible for finance, and, to the extent of the authority given, includes any person authorised by the said Minister in that behalf;

“officer” in relation to a company, includes a director, a manager and a secretary;

“premium” means the consideration payable under a contract of insurance;

“prescribed” means prescribed by regulations under this Act;

“re-insurance” is a contract whereby an insurer insures the risk insured by him, or part of such risk, with another insurer.

(2) Where a foreign company does not transact in Malta any part of the business of insurance other than that of re-insurance placed with it by a licensed company, the provisions of this Act shall not apply to it except to the extent that they specifically apply to re-insurance and to the extent that may be from time to time so prescribed.

3. (1) Subject to the following provisions of this section, no business of insurance shall be transacted in Malta except either —

Licences for the transaction of the business of insurance.

(a) directly, by a company which is in possession of a licence currently operative granted by the Minister under this Act authorising such company to carry on that business; or

(b) as agent of a foreign company authorised as aforesaid, by a local company which is itself in possession of a licence currently operative granted by the Minister under this Act authorising it to act as agent of the former company; or

(c) in respect of re-insurance ceded by a licensed company, by a foreign company approved by the Minister for the purposes of this Act under such conditions and for such period as the Minister may from time to time impose or determine or as may be prescribed, and in respect of which such an approval is currently operative.

(2) No company shall transact in Malta any part of the business of insurance which it is not specifically or generally licensed to transact; nor shall it transact in Malta the business of life and non-life, or general, insurance unless it is specifically so authorised by the licence.

(3) Where a local company is licensed to transact the business of insurance solely and exclusively outside Malta, the Minister may, subject to such conditions and for such period as he may from time to time impose or determine, exempt such company from all or any one or more of the provisions of this Act, and may also at any time revoke or vary any exemption so given.

(4) Where a company is carrying on the business of insurance in Malta on the date of the coming into force of this section and applies or, as the case may require, both principal and agent apply, for a licence within the time and otherwise in conformity with the provisions of this Act, or where a person, other than a company, is carrying on the business of insurance in Malta, on the date of the coming into force of this section and forms a company and applies, or, as the case may require, both principal and agent form a company and apply for a licence within the time and otherwise in conformity with the provisions of this Act, then subsection (1) of this section shall not apply to such company or person unless and until the Minister informs the said company or person that the provisions of that subsection apply or refuses to grant the licence applied for, whichever is the earlier date.

(5) In the event of doubt as to whether the business of insurance is or is not being transacted, or is or is not being transacted in Malta, the matter shall be determined by the Minister and his decision thereon shall be final and conclusive for all purposes of law.

(6) Any person who contravenes any of the provisions of subsection (1) of this section, and any person who is knowingly a party to, or aids or abets any such contravention, shall be liable in respect of each offence to a penalty of not less than one hundred pounds and not exceeding one thousand pounds and in the case of a continuing offence to a further penalty not exceeding one hundred pounds for each day during which the offence continues.

Application
for a
licence.

4. (1) Every company or other person carrying on the business of insurance in Malta on the date of the coming into force of section 3 of this Act which proposes to continue to carry on such business shall, within three months after that date, in the case of a company, apply in writing to the Minister for a licence under this Act and, in the case of a person other than a company, form a company and apply in writing to the Minister for a licence under this Act, indicating whether the licence applied for is to carry on the business as principal or as agent and, in the latter case, the name or names of the principal, and the class or classes of insurance business applied for.

(2) Any company desirous of commencing the business of insurance in Malta after the date of the coming into force of section 3 of this Act shall, before commencing any such business, apply in writing to the Minister for a licence under this Act, indicating whether the licence applied for is to carry on the business as principal or as agent, and in the latter case the name or names of the principal, and the class or classes of insurance business applied for.

(3) All applications for a licence shall be accompanied by a copy of the memorandum and articles of association or other instrument whereby the company is constituted, incorporating all additions or alterations thereto, duly certified by a declaration made by a senior officer of the company, and, if the company is currently carrying on the business of insurance, whether in Malta or elsewhere, the application shall be accompanied by a copy of its latest audited balance sheet or other financial statement showing the affairs of the company.

(4) An applicant for a licence shall forthwith notify the Minister, in writing, of any addition or alteration to the memorandum or articles of association or other instrument mentioned in subsection (3) of this section and of any change in any other information given to the Minister, giving particulars of any such addition, alteration or other change.

(5) In considering an application for a licence, the Minister may require the company to give him such information and in such manner as he may deem fit.

Grant of
licences.

5. (1) No licence to carry on the business of insurance as principal shall be granted or held under this Act unless —

(a) in the case of a local company, its paid up share capital is not less than two million pounds and the company has, at all times, unimpaired assets equal at least to that amount;

(b) in the case of a foreign company, the company has and undertakes to keep, to the satisfaction of the Minister, in Malta at all times during the continuance of the licence and out of its own funds, unimpaired assets amounting to not less than forty per centum (40%) of its gross premium income in Malta in the preceding calendar year after deducting therefrom the amount of re-insurance ceded by the company during that year under subsection (3) of section 15 of this Act, or fifty thousand pounds whichever is the higher amount in respect of non-life business and, in respect of life business, unimpaired assets amounting to not less than thirty and not more than seventy-five per centum (75%) of the life insurance fund required to be kept by the company under this Act, as the Minister may from time to time by order determine.

(2) No licence to carry on the business of insurance as an agent shall be granted or held under this Act unless the company is a local company whose head office is situated in Malta and unless its unimpaired share capital is not less than twenty-five thousand pounds.

(3) Subject to the provisions of this Act, the Minister may —

(a) if he is of opinion that it is not desirable in the public interest that a licence should be granted, or that it should not be granted for all the classes of business applied for, and after reporting the matter to the Prime Minister, refuse to grant a licence or restrict the licence to one or more classes of business, and he need not give reasons for so acting;

(b) subject any licence granted by him to such limitations and conditions as he may from time to time deem fit to impose.

6. (1) A licensed company shall, before making any addition or alteration to the memorandum or articles of association or other instrument constituting the company, submit to the Minister particulars in writing of the proposed addition or alteration for his prior approval and no such addition or alteration shall be made unless and until the Minister has signified his approval in writing:

Matters concerning licensed companies requiring Minister's approval.

Provided that in respect of a foreign company the provisions of this subsection shall not apply where the Minister has approved alternative arrangements which do not detract materially from the objects of this subsection, and such arrangements have been carried out.

(2) Where in consequence of the transfer of any share or shares in a licensed local company, the shares, held by or for persons not resident in Malta would in the aggregate exceed twenty per centum of the share capital of the company or, if such aggregate holding already exceeds that percentage, in the case of any transfer or proposed transfer of shares to non-residents, the company shall inform the Minister of any such transfer or proposed transfer, and, notwithstanding anything contained in any other law, or in the memorandum or articles of the company or other instrument whereby it is constituted, no such transfer shall be registered by the company, and no such transfer shall take effect, whether it is registered or not by the company, unless and until the Minister has signified his approval in writing on an application made in that behalf.

(3) A licensed company shall inform the Minister of any proposed arrangement or agreement for the sale or disposal of its business, whether by amalgamation or otherwise, or of any proposal for reconstruction, and submit them for his approval; and no such arrangement, agreement or proposal shall be carried into effect, or have effect, unless and until the Minister has signified his approval in writing on an application made in that behalf.

(4) For the purposes of subsection (2) of this section —

(a) the expression "a person not resident in Malta" and the expression "non-resident" include a foreign company and a local company controlled by persons not resident in Malta, including a company, wherever registered, which is itself so controlled; and

(b) "share" means a share carrying voting rights, and "share capital" shall be construed accordingly.

(5) Any company which fails to comply with any of the provisions of this section shall, without prejudice to any other provision of this Act, be liable in respect of each offence to a penalty not exceeding ten thousand pounds and in the case of a continuing offence to a further penalty not exceeding one hundred pounds for each day during which the offence continues.

Revocation or Suspension of licence.

7. (1) Subject to the provisions of subsection (2) of this section, the Minister may revoke or suspend a licence —

(a) if any document or information accompanying an application for a licence or any information given in connection therewith is false in any material particular, or if the holder of a licence has concealed or conceals from the Minister, or fails to notify to him, any document or information or any change therein which it was his duty to reveal or to notify under this Act; or

(b) if the holder ceases to carry on the business for which the licence was granted, or suspends payment, or is declared bankrupt, or goes into liquidation, or makes a composition with his creditors or is otherwise dissolved; or

(c) if the holder fails to comply with any of the conditions of the licence or with any of the provisions of sections 8, 9, 10(1), 12, 13, 14, 15 and 16 of this Act; or

(d) if the holder carrying on the business of insurance, fails to observe such conduct as may be prescribed; or

(e) if the holder cannot hold a licence under subsection (1) or (2) of section 5 of this Act; or

(f) in the circumstances and in the manner set out in section 20 of this Act.

(2) Before revoking any licence, the Minister shall notify his intention to take such action to the holder thereof and shall give the company an opportunity to submit reason why its licence should not be revoked.

Reserve and other funds to be kept by insurance companies.

8. (1) Every local company licensed to carry on the business of insurance as principal shall maintain a reserve fund and shall, out of its net profits of each year and before any dividend or any of its shares is declared, transfer to its reserve fund a sum equal to not less than twenty-five per centum of such profits whenever the amount of the reserve fund is less than the paid-up share capital of the company.

(2) Every foreign company licensed to carry on the business of insurance shall keep in Malta, and invest in such manner as the Minister may permit, the unimpaired assets referred to in paragraph (b) of subsection (1) of section 5 of this Act; and the funds so kept and invested shall not be transferred, withdrawn or in any way impaired without the authority of the Minister given in writing or until the company has ceased to carry on business in Malta and proves to the satisfaction of the Minister that it has no further liability in Malta.

Margin of solvency.

9. (1) Every company licensed to carry on the business of insurance as principal, other than an association of individual underwriters, shall at all times keep a margin of solvency sufficient for the purpose of the business of insurance for which it is licensed.

(2) A company shall be deemed not to keep a margin of solvency —

(a) where the company is licensed to carry on any class of insurance business other than that of life insurance if the value of its assets in respect of the classes of insurance business it is licensed to carry on does not exceed the amount of its liabilities in respect of those classes of business by —

(i) one hundred thousand pounds or an equivalent sum in other currency, or

(ii) fifteen per centum of its premium income in its last preceding financial year,

whichever is the greater amount;

(b) where the company is licensed to carry on life insurance business only, if its liabilities under unmaturing life policies exceed the amount of its life insurance fund;

(c) where the company is licensed to carry on any class of insurance business, including life insurance, if —

(i) in respect of its life insurance business it does not satisfy the margin of solvency required by paragraph (b) of this subsection, or

(ii) in respect of all other classes of insurance business it does not satisfy the margin of solvency required by paragraph (a) of this subsection.

(3) In calculating the margin of solvency required by paragraph (a) and sub-paragraph (ii) of paragraph (c) of subsection (2) of this section —

(a) all contingent or prospective liabilities of the company, other than liabilities in respect of share capital, shall be taken into account in determining the amount of the liabilities of the company;

(b) the company's premium income, other than life insurance premium income, in any financial year shall be assessed at the net amount, after deducting any premium paid by the company in re-insurance, of the premiums received by the company in its last preceding financial year in respect of all insurance business, other than life insurance, carried on by it during that year.

(4) Whenever the margin of solvency of any company is less than that required to be kept by it by this section, the company shall make good any such deficiency without delay, and in no case later than fifteen days from the receipt of an order of the Minister to that effect, and to the satisfaction of the Minister.

(5) For so long as the margin of solvency of a company is less than that required by this section, the company shall not assume any new risk of any kind whatsoever; and any person who contravenes any of the provisions of this subsection or of subsection (4) of this section, shall be liable, in respect of each offence, to a penalty not exceeding ten thousand pounds, and in the case of a continuing offence to a further penalty not exceeding one hundred pounds for each day during which the offence continues.

(6) Where the licensed company is an association of individual underwriters, the association shall furnish annually to the Minister —

(a) a certified copy of the returns relating to the insurance business carried on by the members of the association prepared and

furnished by it, to the appropriate authority, in accordance with the laws of that country in which it is registered or incorporated; and

(b) a certificate signed by the Chairman of the association and by the authority referred to in paragraph (a) of this subsection, that the members of the association have, in respect of the preceding year, complied with the provisions of the law applicable to them in the country aforesaid.

Payment of
dividends.

10. (1) No local company licensed to carry on the business of insurance as principal shall declare or distribute or pay any dividend on its shares, or any interest on moneys received in advance of calls of any of its shares, except from profits which the auditors of the company have certified in a statement delivered to the Minister to be remaining on hand after retaining unimpaired —

(a) the entire paid-up share capital;

(b) the margin of solvency required to be kept by section 9 of this Act;

(c) the reserve funds required to be kept by it by section 13 of this Act;

(d) a sum sufficient to pay all net losses and all liabilities.

(2) All dividends and interest declared, distributed or paid by a company to which subsection (1) of this section applies shall be notified to the Minister within fifteen days from any such declaration, distribution or payment.

(3) Any declaration, distribution or payment made in contravention of any of the provisions of this section shall be null and void and any sum so received or credited shall be refunded to the company without delay with interest at the rate of eight per centum.

Inadmissible
assets.

11. (1) In determining the financial position of a licensed company no account shall be taken of non-admissible assets.

(2) The non-admissible assets of a licensed company are —

(a) Goodwill, trade names and other like intangible assets;

(b) prepaid or deferred charges for expenses and commissions paid by the company;

(c) advances to directors (other than policy loans) which are not adequately secured or which have not been previously authorised by the Minister, and advances to employees, agents and other persons which are not adequately secured;

(d) any interest in any of its own shares either directly or through the ownership by the company of an interest in another company or business unit, unless previously approved by the Minister;

(e) any loan or other debt secured by its own shares;

(f) credits resulting from cheques, drafts, notes or other bills of exchange returned unpaid;

(g) any prohibited investment;

(h) any other asset that is so prescribed.

(3) In determining the financial position of a licensed company, all investments and other assets shall be valued in accordance with the provisions of this Act or as may be prescribed.

12. (1) A licensed company shall not make any investment or enter into any transaction which is a prohibited investment or a prohibited transaction.

Investments.

(2) The following are prohibited investments or transactions:

(a) loans to any one person in excess of twenty-five per centum of the total admissible assets of the company as certified by its auditors in the last published accounts;

(b) loans against the security of the company's own shares;

(c) loans which are not adequately secured or which are not secured as may be prescribed;

(d) investments in equities or other shares, or in debentures or bonds, in or of any one company or institution, in excess of ten per centum, or such other percentage as the Minister may approve, of the total admissible assets of the company as certified by the auditors of the company in its last published accounts;

(e) investments in immovable or movable property prohibited by regulations made under this Act or made in excess of the amounts prescribed;

(f) investments in foreign currencies, or in assets expressed in such currencies, in excess of such amounts and in contravention of such provisions as may be prescribed;

(g) any other investment or transaction as may be prescribed.

(3) Any prohibited investment and any prohibited transaction made or entered into by a licensed company shall be null and void, and it shall be the duty of the company to take such steps as may be necessary to restore the "status quo ante".

13. (1) Every company licensed to carry on the business of life insurance as principal shall every year establish its reserve liability in respect of such business in an amount equal to the aggregate net value of all policies, additions thereto, unpaid dividends and all other obligations outstanding on the 31st day of December of the immediately preceding year.

Reserves of insurance companies.

(2) The valuation to be made for the purposes of subsection (1) of this section shall be made upon the net premium basis and according to the standard adopted by the company and stated in its annual report, being a standard complying with such requirements and other provisions as may be prescribed.

(3) Every company licensed as aforesaid shall at all times hold unimpaired assets equal to the net value of its reserve liability and after making adequate provision for all its other liabilities.

(4) Every company licensed to carry on the business of life insurance as principal, other than a company carrying on the business of life insurance exclusively, shall, in respect of all business of insurance other than life insurance, maintain a reserve for unearned premiums on its policies currently in force, and such premiums shall be charged as a liability in any determination of the financial position of the company.

(5) The reserve required to be maintained by subsection (4) of this section shall be equal to forty per centum of the gross premiums,

less any returns and cancellations, received on policies or risks which are still to last beyond the financial year.

Limit of
single risk.

14. (1) No licensed company shall, in respect of its business other than life insurance, retain any risk on any one subject of insurance in an amount exceeding twenty per centum of net worth of the company.

(2) For the purposes of this section —

(a) “subject of insurance” includes all properties or risks insured by the same insurer that are customarily considered by non-life underwriters to be subject to loss or damage from the same occurrence of any hazard insured against;

(b) re-insurance ceded as authorised by this Act shall be deducted in determining the risk retained;

(c) in respect of surety risks, deduction shall also be made of the amount assumed by any other licensed company and the value of any security hypothecated, pledged or held subject to the surety’s control or for the surety’s protection.

Re- insurance.

15. (1) A licensed company may accept re-insurance only of such risks, and may retain risks thereon only within such limits, as it may otherwise lawfully insure.

(2) A licensed company shall not cede by way of re-insurance any part of any risk assumed as part of the business carried on by it in Malta except either to a company licensed to carry on the business of insurance as principal or to a company approved by the Minister under paragraph (c) of subsection (1) of section 3 of this Act and in respect of which such an approval is currently operative.

(3) The Minister may by order in writing require a licensed company to cede to any licensed local company named in the order such percentage not exceeding thirty per centum, of the risk insured and situated in Malta as is stated in the order.

(4) No company licensed to carry on the business of life insurance as principal shall re-insure its whole risk on any individual life or joint lives or substantially all of its insurance in force, without having first applied for and obtained the Minister’s permission in writing.

Financial year
and publication
of accounts.

16. (1) Every local company licensed under this Act to carry on the business of insurance as principal or as agent shall terminate its financial year on the thirty-first day of December of every year, and shall, not later than four months from the closing of its financial year —

(a) forward to the Minister; and

(b) publish in two local daily newspapers of which one is published in the Maltese language and the other is in the English language; and

(c) exhibit in a conspicuous position in each of its offices and branches in Malta and keep so exhibited throughout the following twelve months,

a copy of its total balance sheet and profit and loss account for that financial year giving the exact condition of its affairs at the close of that year and such details as may be prescribed and made out in the prescribed form or otherwise in a form approved by the Minister and giving the details required by him:

Provided that paragraph (b) of this subsection shall not apply to a company licensed to carry on the business of insurance as agent.

(2) Every foreign company licensed under this Act to carry on the business of insurance as principal shall, not later than six months from the closing of its financial year —

(a) forward to the Minister; and

(b) publish in two local daily newspapers of which one is published in the Maltese language and the other in the English language; and

(c) exhibit in a conspicuous position in each of its offices and branches in Malta and keep so exhibited throughout the following twelve months,

a copy of its total balance sheet and profit and loss account for that financial year giving the exact condition of its affairs at the close of that year, and every such balance sheet and profit and loss account shall be accompanied by a statement relating to its business in Malta made out in the prescribed form and giving the prescribed details or otherwise made out in a form approved by the Minister and giving the details required by him.

(3) Every company licensed to carry on the business of insurance as agent shall, not later than six months from the closing of the financial year of its principal, exhibit in a conspicuous position in each of its offices and keep so exhibited throughout the following twelve months a copy of every balance sheet, profit and loss account and statement required by this section to be forwarded by each of its principals to the Ministers.

(4) Every such balance sheet, profit and loss account and statement shall be certified by a person who is an approved auditor in accordance with section 17 of this Act.

(5) The copy of any balance sheet, profit and loss account or statement forwarded to the Minister shall be accompanied by an auditor's report drawn up by the approved auditor certifying the balance sheet, account or statement to which the report refers.

(6) Any company which contravenes any of the provisions of this section shall be liable in respect of each offence to a penalty not exceeding one thousand pounds and to a further penalty not exceeding one hundred pounds for each day during which the offence subsists.

17. (1) Every licensed company shall each year appoint an approved auditor or auditors whose duty shall be to report on the accounts of the company examined by them and on every balance sheet and profit and loss account, and on any statement relating to the company's business in Malta, prepared by the company. Auditors.

(2) If a licensed company fails to appoint an auditor as required by subsection (1) of this section or at any time fails to fill any vacancy in the office of an auditor, the Minister shall have power to appoint an auditor for that company and shall fix the remuneration to be paid by the company to such auditor.

(3) The auditors' report shall contain a statement as to the following matters:

(a) whether they have obtained all the information and explanations which to the best of their knowledge and belief were necessary for the purpose of their audit;

(b) whether, in their opinion, proper books of account have been kept by the company, so far as appears from their examination of those books, and proper returns adequate for the purposes of their audit have been received from branches not visited by them;

(c) whether the company's balance sheet and profit and loss account, or the statement dealt with by the report are in agreement with the books of account and returns;

(d) whether, in their opinion and to the best of their knowledge and according to the explanations given to them, the said accounts give the information required by any law which may from time to time be in force in the manner so required and give a true and fair view, in the case of the balance sheet of the company's affairs at the end of its financial year, in the case of the profit and loss account, of the profit and loss for the financial year, and in the case of a statement of the company's business in Malta, of that business for the financial year;

(e) whether the various requirements of this Act in respect of the company have been complied with and observed, and any provisions made for that purpose.

(4) Every auditor of a licensed company shall have a right of access at all times to the books and accounts and other documents of the company and shall be entitled to require from any offices of the company such information and explanations as he thinks necessary for the performance of the duties of the auditors.

(5) For the purpose of this Act, an approved auditor is a person qualified under the laws for the time being in force to act as an auditor for the company and holds the Minister's authorisation to act as an auditor of an insurance company.

(6) Notwithstanding any of the provisions of the foregoing subsections, the Minister may, in the case of a foreign company, approve such alternative arrangements as he thinks reasonable and which do not materially detract from the main objects of this section, and where such arrangements have been carried out the provisions of this section shall not apply to the extent that they are replaced by such arrangements.

(7) In so far as the provisions of this section are inconsistent with the provisions of the Commercial Partnerships Ordinance, 1962, the provisions of this section shall prevail, and the provisions of the said Ordinance shall, to the extent of the inconsistency, not apply to licensed companies.

Examination
of the
affairs of a
licensed
company.

18. (1) The Minister may appoint one or more competent inspectors to examine the affairs of companies licensed to carry on the business of insurance at such intervals or times as he may from time to time direct, and to report thereon.

(2) It shall be the duty of all officers and agents of a licensed company under examination to produce to an inspector all books and documents of or relating to the company and otherwise to give to an inspector all assistance in connection with the examination which they are reasonably able to give; and if an officer or agent of the company refuses to produce any book or document which it is his duty under this section to produce, or refuses to answer any question which is put to

him by an inspector with respect to the affairs of the company, an inspector may by means of an application refer the matter to the Court and the Court shall thereupon enquire into the case, and after having heard the evidence produced and the submissions made with respect to the case, punish the offender in like manner as if he had been guilty of contempt of the Court.

(3) In this section, any reference to officers or to agents shall include a reference to past as well as present officers or agents and the expression "agents" in relation to a licensed company shall include the bankers and the auditors of the company.

(4) An inspector shall also be given access to any accounts, returns or other information relating to a licensed company which are in the possession or under the control of the Minister.

19. (1) An inspector may, and if so directed by the Minister shall, make interim reports to the Minister, and on the conclusion of the examination he shall make a final report.

Reports by inspectors.

(2) The Minister shall forward to the company a copy of any report made by an inspector concerning its affairs.

(3) The Minister shall have power to order that all expenses of, and incidental to, an examination, or such part thereof as he may deem appropriate, shall be paid by the company concerned; and any sum so due shall be recoverable by the Government as a civil debt due to it.

20. Notwithstanding anything contained in sections 17 and 18 of this Act, where a licensed company considers it likely to be unable to meet its obligations, or that it is about to suspend payment, or where the company has suspended payments, it shall forthwith inform the Minister in writing of such fact.

Companies unable to meet obligations.

21. (1) If, whether from a report made under section 18 of this Act or otherwise, it appears to the Minister that a licensed company is conducting its business in a manner which is detrimental or hazardous to the public or to its policy holders or that any of the facts mentioned in section 19 of this Act are likely to happen or exist, whether or not the company has informed the Minister under that section, or that the company has contravened or failed to comply with any of the provisions of this Act or of any regulation made thereunder, and the contravention is, in the opinion of the Minister, such as to warrant action under this section, the Minister may suspend or revoke any licence issued under this Act, and no new business shall thereafter be done by such company, or for such company by its agents or any other person, unless and until such suspension is revoked or the licence has been restored by the Minister:

Powers of the Minister to protect the public interest.

Provided that the Minister shall not revoke a licence unless he has first given the holder an opportunity to make representations why the licence should not be revoked.

(2) In any of the cases in which the Minister may suspend or revoke a licence under subsection (1) of this section, the Minister may, either in lieu of or in addition to any such suspension or revocation, and without prejudice to his powers to suspend or revoke a licence, proceed in any one or more of the following manners:

(a) require the company forthwith to take such steps as he may consider necessary to rectify or remedy the matter;

(b) appoint a person to advise the company in the proper conduct of its business;

(c) appoint a person to take charge of the assets of the company, or any portion of them, for the purpose of safeguarding the interests of policy holders, creditors and shareholders of the company;

(d) appoint a person to assume control of the business of the company and either to carry on that business or to carry out such other function or functions in respect of such business, or part thereof, as the Minister may direct;

(e) require the company to wind up its business or to wind up its business in Malta;

(f) appoint a person to act as liquidator for the purpose of winding up the affairs of the company;

(g) fix the remuneration to be paid by the company to any person appointed under this section;

(h) do such other act or require the doing of such other thing as he may deem appropriate in the circumstances;

and having proceeded in any one or more of the manners aforesaid, the Minister may further proceed in any one or more of such manners, whether in addition thereto or in substitution therefor.

(3) Where a person is appointed by the Minister —

(a) under paragraph (b) of subsection (1) of this section, it shall be the duty of the company to act in accordance with the advice given by such person unless and until the Minister, on representations made to him, directs otherwise;

(b) under paragraph (c) of subsection (1) of this section, the company shall deliver to such person all the assets of which he is placed in charge, and all the powers, functions and duties of the company in respect of those assets, whether exercisable by the company in general meeting, or by the directors, or by any other person, including the legal and judicial representation of the company, shall be exercisable by and vest in the person appointed under the said paragraph to the exclusion of any other person;

(c) under paragraph (d) of subsection (1) of this section, the company shall submit its business to the control of such person and shall provide him with such facilities as he may require the company to provide him to carry on that business or to carry out the functions assigned to him under the said paragraph; and all the powers, functions and duties of the company, whether exercisable by the company in general meeting, or by the directors or by any other person, including the legal and judicial representation of the company in all matters, shall be exercisable by and vest in him to the exclusion of any other person;

(d) under paragraph (f) of subsection (1) of this section, such person shall be the liquidator of the company for all purposes of law to the exclusion of any other person.

(4) Any company or other person which fails to comply with any of the provisions of this section or with any requirement made thereunder and any person who in any way obstructs a person appointed under subsection (2) of this section in the performance of any of his functions, powers or duties under this section, shall be liable in respect of each offence to a penalty not exceeding one thousand pounds and in the case of a continuing offence to a further penalty not exceeding one hundred pounds for every day during which the offence continues.

(5) In respect of a foreign company the offices and branches in Malta of that company shall, if the Minister so directs and to the extent he so directs, be deemed to constitute a separate company.

22. (1) A company shall not voluntarily cease to carry on the business it is licensed to carry on except with the permission of the Minister given on an application made to him in such manner as may be prescribed and except in compliance with such conditions as the Minister may deem proper to impose.

Withdrawal of a licensed company.

(2) The Minister shall not give permission under subsection (1) of this section unless —

- (a) the prescribed fee has been paid; and
- (b) he has first given such publicity to the application and any relevant facts concerning it as he may deem appropriate or as may be prescribed; and
- (c) the company has discharged all its liabilities in Malta to its policy holders and creditors, whether through payment, re-insurance or otherwise, in manner acceptable to the Minister.

(3) Any company which fails to comply with any of the provisions of this section or with any condition imposed thereunder, shall be liable in respect of each offence to a penalty not exceeding ten thousand pounds.

23. (1) No company licensed to carry on the business of insurance in Malta, whether as principal or as agent, shall pay a commission or other compensation to any person for services given in obtaining insurance business unless such person is authorised by the Minister to act as insurance broker or as an insurance salesman, or is otherwise authorised by the Minister under regulations made under this Act to act in such other capacity as entitles him to receive payment as aforesaid.

Insurance brokers and insurance salesmen.

(2) No person shall act as an insurance broker or insurance salesman unless he is in possession of an authority from the Minister currently operative to act in that capacity.

(3) No authority shall be issued under this section except on an application made in such manner and containing such information as may be prescribed or as the Minister may otherwise require and unless it is accompanied by the prescribed fee, and, in the case of an application to act as insurance salesman, unless the application is approved and countersigned by the company for which the applicant desires to act.

(4) The Minister shall not grant an authority to act as an insurance broker to any person unless such person is a local company and has in its favour a contract of insurance acceptable to the Minister indemnifying it against any liability it, or any person employed by it or otherwise acting for it, may incur as a result of any negligent act, error or omission in the conduct of its business as an insurance broker for an amount not less than two hundred and fifty thousand pounds or such higher sum as the Minister may deem adequate in consideration of the nature of the business to be transacted; and any authority granted by the Minister under this section shall cease to be operative as soon as the person in whose favour it was granted ceases to be a company or is no longer covered by an indemnity insurance as aforesaid.

(5) Subject to the provisions of this Act, the Minister may grant or refuse to grant, or renew or refuse to renew, an authority under this section, and if he refuses to grant or to renew such authority, he shall not be required to give reasons for so acting. The Minister may also grant or renew an authority granted or renewed under this section to any condition or restrictions he may deem appropriate. Unless otherwise stated in the authority, an authority granted or renewed under this section shall remain operative until the 31st December of the year in which it is granted or renewed.

(6) Any person who —

(a) for any commission or other compensation or thing of value whatsoever, solicits or obtains insurance on behalf of an insurance company or transmits for any person other than himself on application for a policy or contract of insurance to or from such company, or offers or assumes to act in the negotiating of such insurance, shall be an insurance salesman for the purposes of this Act;

(b) for any commission or other compensation or thing of value whatsoever, acts or aids in any manner in soliciting, negotiating, or procuring the making of any insurance contract or in placing risk or taking out insurance, on behalf of an insured person or a person to be insured, other than himself, shall be an insurance broker for the purposes of this Act.

(7) Any person acting in contravention of any of the provisions of this section or of any authority granted thereunder shall be liable in respect of each offence to a penalty not exceeding one thousand pounds and in the case of a continuing offence to a further penalty not exceeding fifty pounds for each day during which the offence continues.

Suspension or
revocation of
authority
granted
under
section 23.

24. (1) An authority granted under section 23 of this Act may be suspended or revoked by the Minister if, the person authorised —

(a) in applying for the licence has given any false or incorrect information in any material particular or has concealed any information which was material to the application, or has obtained otherwise the licence by fraud or misrepresentation;

(b) ceases to act as a broker or salesman, as the case may be, or suspends payment or is declared bankrupt, or makes a composition with his creditors, or in the case of a company, if it goes into liquidation or is otherwise dissolved;

(c) has failed to comply with any of the provisions of this Act or any regulations made thereunder or with the terms or conditions of his authority;

(d) has shown incompetence in the conduct of his activities under the authority or has in any manner acted fraudulently, or dishonestly or otherwise in such manner as to cease to be trustworthy, and in particular but without prejudice to the generality of the foregoing, if —

(i) he has misappropriated or converted to his own use or illegally withheld moneys held or required to be held in a fiduciary capacity;

(ii) he has materially misrepresented the terms or conditions of policies or contracts of insurance which he seeks to sell or has sold.

(2) An authority granted under section 23 of this Act shall not be revoked by the Minister unless the person to whom it was granted has first been given an opportunity to make representations why it should not be revoked.

25. (1) The Minister may make regulations to control and regulate any matter relating to or connected with the business of insurance and otherwise to give better effect to any one or more of the provisions and purposes of this Act, and in particular, but without prejudice to the generality of the foregoing, the Minister may by such regulations control, regulate, or otherwise make provision in respect of, any one or more of the following matters —

Regulations.

(a) any activity relating to or connected with the business of insurance including the requirement of any authority, licence or permission for such activity, and the terms, conditions, suspension and revocation thereof;

(b) the code of conduct to be observed by any person licensed, authorised or otherwise given permission under this Act or any regulations made thereunder;

(c) any matter relating to or connected with the business of insurance and policies or contract of insurance, including surveys, surveillances and adjustments of claims under any such contract or policy, and the fixing of insurance rates;

(d) actuaries and actuarial services, and the persons or organisations that may act in such capacity;

(e) the requirements, duties, conditions or other obligations to be observed by insurance companies and any person licensed or authorised under this Act or any regulation made thereunder, for the proper and better conduct of their activities;

(f) any matter relating to or connected with the Security Fund established under section 26 of this Act;

(g) any matter that may or is to be prescribed or prohibited under any of the provisions of this Act;

(h) the fees to be levied in respect of any matter provided for by or under this Act or any regulations made under this section;

(i) the penalties or other punishments to which persons contravening or failing to comply with any provision of any regulation made as aforesaid shall become liable, being penalties not in excess of one thousand pounds in respect of any offence and in respect of a continuing offence of a further penalty not exceeding one hundred pounds for each day during which the offence continues.

(2) The Minister may also by regulations under this section extend and make applicable any of the provisions of this Act to any activity which in his opinion ought, in the public interest, to be regulated by such provisions.

(3) Except where any regulation made under this section provides for a lesser penalty, any person acting in contravention of or failing to comply with or otherwise observe any such regulation shall be liable to a penalty not exceeding one thousand pounds in respect of each offence and in the case of a continuing offence to a further penalty not exceeding one hundred pounds for each day during which the offence continues.

(4) In this section, and for the purposes of any regulations made thereunder, "insurance rates" means the ratio of the premium to the amount insured and includes, as the context may require, either the consideration to be paid or charged for insurance contracts, including surety bonds, or the elements and factors forming the basis of the determination or application of the same, or both.

Security Fund.

26. (1) There shall be established a fund, to be known and is in this Act referred to as the "Security Fund", for the payment of any claims against an insurance company licensed to carry on the business of insurance in Malta remaining unpaid by reason of the insolvency of such company, and for such other purposes relating to insurance, including compensation to victims of traffic accidents, as may be prescribed, subject to such limitations and restrictions as may be prescribed.

(2) The Security Fund shall consist of all payments made to it under this Act and any regulations made thereunder, and of all other assets and revenues pertaining to it.

(3) All companies licensed to carry on the business of insurance in Malta shall contribute to the Security Fund in such amounts as shall be prescribed, and different amounts may be so due by companies doing different kinds of insurance business.

(4) The Security Fund shall be administered and otherwise dealt with in accordance with regulations made under section 25 of this Act:

Provided that separate treatment shall be given to payments made into the fund by life insurance companies, which shall be utilized exclusively for disbursements that refer to life insurance companies, and to payments made into the fund by non-life insurance companies, which shall be utilized exclusively for disbursements that refer to such non-life insurance companies:

Provided further that no payment shall be made from the Security Fund to any person who owns or controls, directly or indirectly, twenty-five per centum or more of the voting shares or rights of the insolvent insurer.

Offences by directors and managers.

27. Any person who being a director or manager or similar officer of a company —

(a) fails to take all reasonable steps to secure compliance by the company with any of the provisions of this Act or of any regulations made thereunder or of any licence, authority or permission issued thereunder; or

(b) fails to take all reasonable steps to ensure the correctness of the statements made or other information given under any of the provisions aforesaid,

shall be liable in respect of each offence, and without prejudice to any other penalty due under this Act or any regulations thereunder, to a penalty not exceeding five thousand pounds, or, on conviction by the Court of Magistrates of Judicial Police, to a fine (*multa*) not exceeding ten thousand pounds or to imprisonment not exceeding one year or to both such fine and imprisonment.

Recovery of penalties.

28. (1) Subject to the provisions of subsection (2) of this section, all penalties under this Act shall, at the instance of the Attorney General by writ of summons in the Commercial Court, be fixed by the Court and be recoverable as a civil debt due to the Government.

(2) Where the Attorney General gives notice in writing to any person that such person has become liable to a penalty under this Act, specifying the nature of the offence and indicating an amount as due by way of penalty in respect of that offence, and the person to whom the notice is given does not, by an objection in writing delivered to the Attorney General, object to the notice within the time (being not less than fifteen days from the giving of the notice) specified therein for the payment of the amount aforesaid, or agrees to pay, or in fact pays, such amount, the person to whom the notice is given shall be deemed to all purposes to have incurred a penalty under this Act and the amount indicated as aforesaid as due by way of penalty shall be deemed for all purposes to be the penalty due and payable under this Act in respect of the offence specified therein.

Objects and Reasons

The Object of the Bill is to regulate the business of insurance by subjecting it to the grant of a licence and by providing for the carrying on of that business in such manner as to provide greater security for policy holders and creditors of insurance companies.