

## **Insurance Act 1976**

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### **1976, No. 23**

#### **AN ACT to regulate insurance business in Western Samoa.**

**BE IT ENACTED** by the Legislative Assembly of Western Samoa in Parliament assembled as follows:-

*[17 December 1976]*

#### **1. Short title and commencement**

(1) This Act may be cited as the Insurance Act 1976.

(2) This Act shall come into force on the 1<sup>st</sup> day of January 1977.

#### **2. Interpretation**

In this Act, unless the context otherwise requires, -

“Government” means the Government of the Independent State of Western Samoa:

“Insurance” in relation to any life, includes endowment and annuity contracts:

“Insurance business” includes every class of the business of undertaking liability, by way of insurance or reinsurance, on or in respect of any life or personal injury, or against or in

respect of loss or damage of any kind, including liability to pay any damages, compensation or other amount contingent on the happening of a specified event, and includes any business incidental thereto:

“Insurer” means any person who carries on insurance business:

“License” means a license granted under section 6 that has not expired, and has not been cancelled, and is not for the time being suspended:

“Minister” means the Minister of Finance:

“Prescribed” means prescribed by regulations or by the Minister.

### **3. Insurers to be licensed**

(1) No person shall after the 1<sup>st</sup> day of March 1977 carry on any insurance business in Western Samoa unless he is the holder of a license granted under section 6.

(2) Subsection (1) shall not apply to the Western Samoa Life Assurance Corporation established by the Life Assurance Corporation Act 1976.

(3) Every person who contravenes subsection (1) commits an offence against this Act, and is liable on conviction –

- (a) In the case of a person which is a body corporate, to a fine not exceeding \$2000, and to a further fine not exceeding \$200 for every day on which the offence has continued; and
- (b) If the case of any other person, to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$500.

### **4. Applications for licenses**

(1) Every applicant for a license, shall apply in the prescribed form to the Minister of Finance.

(2) Before determining an application for a license, the Minister may require the applicant to provide such other information as the Minister may reasonably require to satisfy himself that –

- (a) It is in the economic interests of Western Samoa that the applicant should be granted a license; and
- (b) The applicant is of good repute and will have sufficient means to carry on the proposed insurance business so that the interests of those persons who deal with the applicant as an insurer in Western Samoa will be adequately protected.

### **5. Application fees**

Every applicant for a license shall pay to the Government a fee of \$100 or such other fee as for the time being may be prescribed by regulations made under this Act.

### **6. Granting of licenses**

(1) After considering an application made under section 4, the Minister may, if he is satisfied that –

- (a) The application fee required under section 5 has been paid by applicant; and
- (b) The requirements specified in paragraphs (a) and (b) of subsection (2) of section 4 are met by the applicant; and
- (c) The applicant has deposited in accordance with section 7 the appropriate amount required by that section –

may grant a license in the prescribed form to the applicant, on such conditions (if any) as he may specify in the license.

(2) Every license shall expire with the 31<sup>st</sup> of December in the year for which it is issued but may from time to time be renewed on payment of the fee prescribed by regulations made under this Act.

### **7. Deposits to be made by applicant**

(1) No application for a license may be granted unless –

- (a) In the case of an applicant to carry on the business of life insurance, he has first deposited with the Government the sum of \$100,000:
- (b) In the case of an applicant to carry on any other kind of insurance business except the business of reinsurance, he has first deposited with the Government the sum of \$40,000:
- (c) In the case of an applicant to carry on any business of reinsurance he has first deposited with the Government the sum of \$10,000.

(2) All such deposits shall be paid into a separate account called the Insurance Account, which shall form part of the Public Account.

(3) There shall be paid from the Insurance Account to every person whose money is deposited in the Insurance Account under this section, so long as that person has complied with his obligations under this section, interest on the amount deposited by him at the rate of 6 per cent per annum, quarterly on the last day of March, June, September, and December each year.

(4) All funds in the Insurance Account, and all accumulations of such funds, shall be held by the Government, pro rata in relation to the deposits made under this section by particular applicants, for the policy holders or claimants in respect of policies or other contracts of insurance issued, granted or entered into in Western Samoa by such applicants as insurers, or in respect of which such insurers have acted in Western Samoa as the agents of underwriters, whether (in every case) before or after the commencement of this Act.

(5) On application being made to the Supreme Court by any person for whom any deposit is held under subsection (4), the Supreme Court, where satisfied that the claim of that person is proved against the insurer who has made the deposit, and that the insurer is unable otherwise to pay the claim, may order the claim to be satisfied out of the amount

deposited in the Insurance Account by the insurer (including any accumulations of that amount).

(6) Where on any application to the Supreme Court under subsection (5), it appears to the Supreme Court to be likely that further claim will be made under that subsection against an insurer, the Supreme Court may make such orders as it thinks fit for the purpose of allowing all such claimants the opportunity to make their claims and to ensure that the amount deposited in the Insurance Account by the insurer (including all accumulations of that amount) will be available pro rata for every claimant who does make a claim.

(7) Where the Supreme Court makes any order under this section to pay any money to any person, the money may be paid out of the Insurance Account to that person whose receipt shall be a discharge to the Government of its liability to any insurer or other person for that money.

(8) Where any payment is made out of the Insurance account under this section, the license of the insurer who was in default shall be thereupon suspended until he deposits in the Insurance Account the amount of the claim paid.

### **8. Refund of deposits**

(1) Where the Minister is satisfied that any insurer has ceased to carry on business as such in Western Samoa, he may by notice published twice in the Savali or any newspaper at an interval of not less than 2 weeks call on persons having any claims under section 7 against the Insurance Account in respect of that insurer to bring their claims in the Supreme Court within 6 months of the date of the second publication of the notice.

(2) If, at the expiration of the period of 6 months referred to in subsection (1), no claim has been made to the Supreme Court, the amount of the deposit made in the Insurance Account by the insurer, plus any interest that has accrued from any investment of that deposit, and less any money paid out of that deposit to any claimant under section 6, shall be paid to the insurer from the Insurance Account.

(3) Where any claim is made within the period of 6 months referred to in subsection (1), the deposit and all interest that has accrued from the investment of it shall be held and applied in accordance with the decision of the Supreme Court, and to the extent that the Supreme Court disallows any claim, it shall be paid to the insurer in accordance with subsection (2).

### **9. Powers of Minister in respect of insurers**

The Minister may from time to time by notice in writing to any insurer require the insurer

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- (a) To submit for inspection to the Minister, or to any officer of the Treasury Department authorized by the Minister for the purpose, any accounts, books, papers, records, or other documents belonging to or used by the insurer in connection with his insurance business:

- (b) To submit to an audit for and on behalf of the Minister by an auditor approved for the purpose by the Minister:
- (c) To provide to the Minister such other information in respect of the insurance business of the insurer as the Minister may require.

### **10. Cancellation and suspension of licenses**

Where, on the application of the Government to the Supreme Court in Western Samoa, it is proved to the satisfaction of the Supreme Court that any insurer –

- (a) Has contravened any condition of his license; or
- (b) Has failed to comply with any direction or other requirement of this Act; or
- (c) Is likely to be unable to fulfill the obligations incurred by him in the course of his insurance business –

the Supreme Court may either cancel the license of the insurer, or suspend the license until on further application to the Supreme Court by the insurer he satisfies the Supreme Court that the suspension may be revoked.

### **11. Appeals**

(1) Any person whose application for a license is refused by the Minister, or who is dissatisfied with any condition imposed by the Minister in granting a license to him, may within 21 days after being notified of the decision of the Minister, or within such further time as the Supreme Court may in any case allow, appeal against that decision to the Supreme Court.

(2) On hearing the appeal, the Supreme Court may confirm, reverse, or vary in accordance with this Act, the decision of the Minister.

### **12. Regulations**

The Head of State, acting on the advice of Cabinet, may from time to time make regulations for all or any of the following purposes:

- (a) Providing for regular audit inspections of insurers, the manner of such audits, the persons to whom audit reports may be furnished, and the persons by whom the costs of such audits shall be borne:
- (b) Prescribing accounts, books, records, papers, and other documents to be kept by insurers:
- (c) Prescribing fees for applications for licences and renewals of licences:
- (d) Providing for such other matters as are contemplated or necessary for giving full effect to this Act and for its due administration.

### **13. Business licences not required by licenses**

No holder of a licence granted under this Act shall, so long as his licence remains in force, be required to obtain a business licence under the Business Licences Ordinances 1960 in respect of the insurance business to which the licence under this Act relates.

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