**SCHEDULE 1**

**LAWS AMENDED**

KEY: Amendments emanating from public comments are in track changes.

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| ***No. and year of Act*** | ***Short title*** | ***Extent of amendment or repeal*** |
| [--] of 2016 | Financial Sector Regulation Act | 1. The amendment of section 1 –  (a) by the substitution for paragraph (b) of the definition of “eligible financial institution” of the following paragraph:  *“(b)* a financial institution registered as a long-term insurer in terms of the Long-term Insurance Act or a short-term insurer in terms of the Short-term Insurance Act or licensed or required to be licensed in terms of the Insurance Act;”; and  (b) by the insertion after the definition of “industry ombud scheme” of the following definition:  “**“Insurance Act”** means the Insurance Act, 2017;”.  2. The amendment of section 2 –  (a) by the substitution in subsection (1) for paragraph (b) of the following paragraph:  “(b) a long-termpolicy as defined in section 1(1) of the Long-termInsurance Act or a life insurance policy as defined in section 1 of the Insurance Act;”; and  (b) by the substitution in subsection (1) for paragraph (c) of the following paragraph:  “(c) a short-term policy as defined in section 1(1) of the Short-term Insurance Act or a non-life insurance policy as defined in section 1 of the Insurance Act;”.  3. The amendment of Schedule 1 by the insertion in the next row after “Credit Rating Services Act, 2012 (Act No. 24 of 2012)” of the following:  “Insurance Act, 2017”.  4. The amendment of Schedule 2 –  (a) by the insertion after the “Credit Rating Services Act, 2012 (Act No. 24 of 2012)” row of the following row:   |  |  | | --- | --- | | Insurance Act, 2017 (Act No. [--] of 2017) | Prudential Authority |   (b) by the amendment of the row following the “Insurance Act (Act No. [--] of 2017)” row as follows:   |  |  | | --- | --- | | **[the]**Long-term Insurance Act (Act No. 52 of 1998) and the Short-term Insurance Act (Act No. 53 of 1998)**[, so far as they relate to matters within the objectives of—**  ***(a)* the Prudential Authority**  ***(b)* the Financial Sector Conduct Authority]** | Financial Sector Conduct Authority  **[Prudential Authority**  **Financial Sector Conduct Authority]** | |
| 52 of 1998 | Long-term Insurance Act | 1. The substitution of all references in this Act to “Registrar” with “Authority”. |
| 2. The substitution for section 1 of the following section:  **"1.** **Definitions**  (1) In this Act, unless the context otherwise indicates -  **“assistance policy”** means a life policy in respect of which the aggregate of -  (a) the value of the policy benefits, other than an annuity, to be provided (not taking into account any bonuses to be determined in the discretion of the long-term insurer); and  (b) the amount of the premium in return for which an annuity is to be provided,  does not exceed R30 000, or another amount prescribed by the Minister; and includes a reinsurance policy in respect of such a policy;  **“Authority”** means the Financial Sector Conduct Authority established by the Financial Sector Regulation Act;  **“conduct standard”** has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;  **“disability event”** means the event of the functional ability of the mind or body of a person or an unborn becoming impaired;  **“disability policy”** means a contract in terms of which a person, in return for a premium, undertakes to provide policy benefits upon a disability event; and includes a reinsurance policy in respect of such a contract;  **“Financial Sector Regulation Act”** means the Financial Sector Regulation Act, 2017;  **“fund”** means -  (a) a friendly society as defined in section 1 of the Friendly Societies Act, 1956 (Act No. 25 of 1956);  (b) a pension fund organization as defined in section 1 of the Pension Funds Act, 1956 (Act No. 24 of 1956);  (c) a medical scheme as defined in section 1 of the Medical Schemes Act; and  (d) any other person, arrangement or business prescribed by the Authority;  **“fund policy”** means a contract in terms of which a person, in return for a premium, undertakes to provide policy benefits for the purpose of funding in whole or in part the liability of a fund to provide benefits to its members in terms of its rules, other than such a contract relating exclusively to a particular member of the fund or to the surviving spouse, children, dependants or nominees of a particular member of the fund; and includes a reinsurance policy in respect of such a contract;  **“health event”** means an event relating to the health of the mind or body of a person or an unborn;  **“health policy”** means a contract in terms of which a person, in return for a premium, undertakes to provide policy benefits upon a health event, and includes a reinsurance policy in respect of such a contract -  (a) excluding any contract—  (i) that provides for the conducting of the business of a medical scheme referred to in section 1 (1) of the Medical Schemes Act; or  (ii) of which the policyholder is a medical scheme registered under the Medical Schemes Act, and which contract—  (aa) relates to a particular member of the scheme or to the beneficiaries of that member; and  (bb) is entered into by the medical scheme to fund in whole or in part its liability to the member or the beneficiaries of the member referred to in subparagraph (aa) in terms of its rules; but  (b) specifically including, notwithstanding paragraph (a) (i), any contracts identified by the Minister by regulation under section 72 (2A) as a health policy;  **“independent intermediary”** has the meaning as prescribed in the regulations;  **“Insurance Act”** means the Insurance Act, 2017;  **“joint standard”** has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;  **“licensed insurer”** means -  (a) a previously registered insurer as defined in Item 1 of Schedule 3 to the Insurance Act who has been granted a licence under section 23 of the Insurance Act within the period referred to in item 6.2(2) of Schedule 3 to the Insurance Act; or  (b) a person who has been licensed under section 23 of the Insurance Act after the date on which that Act commenced;  **“life event”** means the event of the life of a person or an unborn -  (a) having begun;  (b) continuing;  (c) having continued for a period; or  (d) having ended;  **“life insured”** means the person or unborn to whose life, or to the functional ability or health of whose mind or body, a long-term policy relates;  **“life policy”** means a contract in terms of which a person, in return for a premium, undertakes to -  (a) provide policy benefits upon, and exclusively as a result of, a life event; or  (b) pay an annuity for a period;  and includes a reinsurance policy in respect of such a contract;  **“long-term insurance business”** means –  (a) in respect of a registered insurer, the business of providing or undertaking to provide policy benefits under long-term policies;  (b) in respect of a licensed insurer, life insurance business as defined in section 1 of the Insurance Act;  **“long-term insurer”** means a registered insurer or a licensed insurer**;**  **“long-term policy”** means –  (a) in respect of a registered insurer, an assistance policy, a disability policy, fund policy, health policy, life policy or sinking fund policy, or a contract comprising a combination of any of those policies; and includes a contract whereby any such contract is varied;  (b) in respect of a licensed insurer, a life insurance policy as defined in section 1 of the Insurance Act;  **“Medical Schemes Act”** means the Medical Schemes Act, 1998 (Act No. 131 of 1998);  **“Minister”** means the Cabinet member responsible for finance;  **“official web site”** means a web site of the Authority;  **“policy benefits”** means –  (a) in respect of a registered insurer, one or more sums of money, services or other benefits, including an annuity;  (b) in respect of a licensed insurer, benefits to which a person is contractually entitled under a life insurance policy arising from an insurer’s insurance obligations;  **“policyholder”** in respect of a –  (a) registered insurer, means the person entitled to be provided with the policy benefits under a long-term policy;  (b) licensed insurer, has the meaning assigned to it in the Insurance Act;  **“premium”** in respect of a –  (a) registered insurer, means the consideration given or to be given in return for an undertaking to provide policy benefits;  (b) licensed insurer has the meaning assigned to it in the Insurance Act;  **“Register”** means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;  **“registered insurer”** means a previously registered insurer as defined in item 1 of Schedule 3 to the Insurance Act for the period between the date on which the Insurance Act commenced and the previously registered insurer’s licence application referred to in item 6.(2) of Schedule 3 to the Insurance Act has been granted or not granted;  **“regulation”** means a regulation under section 72;  **“reinsurance policy”** means –  (a) in respect of a registered insurer, a reinsurance policy in respect of a long-term policy;  (b) in respect of a licensed insurer, a life insurance policy written under the reinsurance class of life insurance business as set out in Table 1 of Schedule 2 of the Insurance Act;  **“repealed Act”** means the Insurance Act, 1943 (Act No. 27 of 1943);  **“representative”** has the meaning as prescribed in the regulations;  **“services as intermediary”** has the meaning as prescribed in the regulations;  **“sinking fund policy”** means a contract, other than a life policy, in terms of which a person, in return for a premium, undertakes to provide one or more sums of money, on a fixed or determinable future date, as policy benefits; and includes a reinsurance policy in respect of such a contract;  **“short-term insurer”** has the meaning assigned to it in the Short-term Insurance Act, 1998;  **“this Act”** includes any regulation made, or matter prescribed under this Act;  **“Tribunal”** means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act;  **“unborn”** means a human foetus conceived but not born.  (2) For the purposes of entering into a long-term policy the life of an unborn shall be deemed to begin at conception.  (3) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act or Insurance Act.  (4) A reference to statutory actuary in this Act must be construed as a reference to the head of the actuarial control function appointed by a long-term insurer in accordance with the Insurance Act.”. |
|  |  | 3. The amendment of section 1A by –   1. the deletion of subsection (1); 2. the substitution for subsection (4) of the following subsection –   “(4) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation, a reference in this Act to a matter being—  *(a)* prescribed must be read asa reference to the matter being prescribed in a conduct standard or a joint standard; or  *(b)* determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.”;  (c) the substitution for subsection (6) of the following subsection –  “(6) The references in section 3(3) to an appeal to the board of appeal established by section 26 of the Financial Services Board Act must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.”. |
|  |  | 4. The whole of sections 2(2), 2(3), 4(5), 4(7), 7, 8(1), 8(2), 9 – 35, 37 – 43, 48, 52, 53, 56, 59, 60, 67, 69 – 71 and 72(2A), and Schedules 1 and 3 are hereby repealed. |
|  |  | 5. The amendment of section 3 by –  (a) the substitution in subsection (2)(b) for subparagraph (i) of the following subparagraph:  “(i) the fees determined under the Financial Sector Regulation Act; and”; and  (b) the substitution for subsection (4) of the following subsection:  “(4) A person may, upon payment of any fees determined under the Financial Sector Regulation Act**,** inspect only those documents determined by the Authority by notice on the official web site, which are held by the Authority under this Act in relation to a long-term insurer or an intermediary, or obtain a copy of or extract from any such document.”. |
|  |  | 6. The amendment of section 8 by –   1. the substitution of the heading of the section for the following heading:   “Prohibition on performance of certain acts, by certain persons”;   1. the substitution for subsection 3 of the following subsection:   “(3) Subject to this Act, no person shall render services as intermediary, in relation to a long-term policy, unless -  (a) long-term insurers are the only underwriters in terms of the long-term policy concerned;or  (b) that person does so with the approval of the Authority.”; and   1. the insertion after subsection (3) of the following subsections:   **“**(4) The Authority may from time to time by notice on the official web site or, in the case of any particular person, by notice to such person, subject to such conditions as the Authority determines –  (a) and specifies in the notice, grant to persons generally or to any particular person or category of persons the approval contemplated in subsection (3)(b) to such extent as may be specified by the Authority in the notice; and  (b) at any time withdraw or amend any such approval to such extent as may be determined by the Authority.  (5) Subsection (3) shall not apply in the case of a long-term reinsurance policy unless and to the extent that the Authority so determines by notice in the *Gazette*.". |
|  |  | 7. The substitution of the heading of Part IV for the following:  “RETURNS TO AUTHORITY”. |
|  |  | 8. The amendment of section 36 by –  (a) the substitution in subsection (1) for the words following paragraph (c) of the following words:  “determined by the Authority by notice on the official web site, either generally or in relation to a particular insurer.”; and  (b) the substitution in subsection (2) for the words preceding paragraph (a) of the following words:  "If the Authority is satisfied that a return furnished to it in terms of subsection (1) is incomplete or incorrect, it may, by notice –”. |
|  |  | 9. The substitution for section 45 of the following section –  **“45. Prohibition on inducements**  (1) Unless done in accordance with the rules prescribed under section 62, no person shall provide, or offer to provide, directly or indirectly, any valuable consideration as an inducement to a person to enter into, continue, vary or cancel a long-term policy.  (2) Subsection (1) shall not apply in the case of a long-term reinsurance policy unless and to the extent that the Authority so determines by notice in the *Gazette*.”. |
|  |  | 10. The insertion after section 47 of the following section –  **“47A. Collection of premiums by intermediaries**  (1) No independent intermediary shall receive, hold or in any other manner deal with premiums payable under a long-term policy entered into or to be entered into with a long-term insurer and no such long-term insurer shall permit such independent intermediary to so receive, hold or in any other manner deal with such premiums -  (a) unless authorised to do so by the long-term insurer concerned as prescribed by regulation; and  (b) otherwise than in accordance with the regulations.  (2) Subsection (1) shall not apply in the case of a long-term reinsurance policy unless and to the extent that the Authority so determines by notice in the *Gazette*.”. |
|  |  | 11. The substitution for section 49 of the following section –  **“49. Limitation of remuneration**  No consideration shall be –  (a) offered or provided by a long-term insurer or a person on behalf of a long-term insurer to an independent intermediary or any other person; or  (b) accepted by an independent intermediary or other person,  for rendering services referred to in the regulations, other than commission or remuneration contemplated in the regulations and otherwise than in accordance with the regulations.”. |
|  |  | 12. The amendment of section 49A by -  (a) the substitution for subsection (1) of the following subsection:  “(1) A long-term insurer may in terms of a written agreement only, and in accordance with any requirements, limitations or prohibitions that may be prescribed by regulation, allow another person to do any one or more of the following on behalf of that insurer:  (a) Enter into, vary or renew a long-term policy on behalf of that insurer;  (b) determine the wording of a long-term policy;  (c) determine premiums under a long-term policy;  (d) determine the value of policy benefits under a long-term policy;  (e) settle claims under a long-term policy.”;and  (b) the insertion after subsection (1) of the following subsection:  “(1A) Subsection (1) shall not apply in the case of a long-term reinsurance policy unless and to the extent that the Authority so determines by notice in the *Gazette*.”. |
|  |  | 13. The substitution for section 51 of the following section –  **“51. Policy suspended until payment of first premium**  (1) The undertaking of a long-term insurer to provide policy benefits under a long-term policy shall be suspended until the long-term insurer has received, if there -  (a) is to be one premium, that premium; or  (b) are to be two or more premiums, the first of those premiums,  or until arrangements to its satisfaction have been made for the provision of the premium by debit order, stop order, credit card or other instrument approved by the Authority generally by notice on the official web site.  (2) Subsection (1) shall not apply to –  (a) a fund policy in the case of a registered insurer; and  (b) a life insurance policy written under the fund risk class of life insurance business as set out in Table 1 of Schedule 2 of the Insurance Act in the case of a licensed insurer;  (3) Subsection (1) shall not apply in the case of a long-term reinsurance policy unless and to the extent that the Authority so determines by notice in the *Gazette*.”. |
|  |  | 14. The amendment of section 55 by the substitution for subsection (1) of the following subsection:  “(1) A long-term insurer shall not undertake to provide, or provide, policy benefits in terms of a long-term policy in the event of the death of an unborn, or of a minor before that minor attains the age of 14 years, the value of which, on its own or when added to the value of policy benefits or similar benefits which to its knowledge are to be provided in that event by a long-term insurer or a short-term insurer or a friendly society in terms of any policy, exceeds, in the event of the death -  (a) of that unborn, or of that minor before he or she attains the age of six years, R20 000; or  (b) of that minor after he or she attains the age of six years but before he or she attains the age of 14 years, R50 000,  or such other amount prescribed by the Minister: Provided that this section shall not apply to or prohibit the allocation of profit in respect of such policies on the lives of minors, which allocation does not exceed the profits allocated to other such policies on the lives of persons who are not minors.”. |
|  |  | 15. The amendment of section 62 by -   1. the substitution in subsection (1) for paragraph (a) of the following paragraph:   “(a) prescribe rules not inconsistent with this Act, aimed at ensuring for the purpose of policyholder protection that policies are entered into, executed and enforced in accordance with sound insurance principles and practice in the interests of the parties and in the public interest generally;”;   1. the substitution in subsection (2) for paragraph (b) of the following paragraph:   “(b) that the policy and particular information in relation to a policy shall be made known in a particular manner to prospective policyholder or policyholder, and what the legal consequences shall be if that is not done;”;   1. the substitution in subsection (2) for paragraph (e) of the following paragraph:   “(e) for standardised wording, definitions or provisions that must be or may not be included in policies;”;   1. the insertion in subsection (2) after paragraph (e) of the following paragraphs:   “(f) for principles and requirements relating to any advertisement, brochure or similar communication which relates to the business of a long-term insurer, or to a long-term policy;  (g) for principles and requirements relating to claims handling, complaints handling and dispute resolution applicable to long-term insurers;  (h) for principles and requirements relating to the manner and form in which policy benefits must be provided;  (i) for principles and requirements relating to misrepresentation in relation to a long-term policy;  (j) for requirements relating to the validity of a contract under a long-term policy;  (k) for principles and requirements relating to non-payment of premiums and grace periods in relation to a long-term policy, and related disclosures to policyholders;  (l) for principles and requirements relating to insurance product design and ongoing review of insurance product performance to ensure the fair treatment of policyholders;  (m) for principles and requirements relating to a long-term insurers dealings with intermediaries;  (n) for principles and requirements relating to data management in order to appropriately identify, assess, measure and manage the conduct of business risks associated with its insurance business to ensure the fair treatment of policyholders; and  (o) for principles and requirements relating to the termination of policies.”;   1. the substitution for subsection (3) of the following subsection:   “(3) Rules referred to in subsection (2) may —  (a) apply generally;  (b) be limited in application to a particular kind or type of policies, long-term insurers or long-term insurance business; or  (c) differentiate between different kinds of insurers, policies, contracts, and services.”; and   1. the substitution for subsection (5) of the following subsection:   “(5) Any rule promulgated by the Minister prior to the commencement of the Financial Services Laws General Amendment Act, 2013, must be regarded as having been prescribed under this section, and remains valid and enforceable until repealed or amended by the Authority.”. |
|  |  | 16. The substitution for subsection (1) of section 63 of the following subsection:  “(1) Subject to subsections (2), (3) and (4), the policy benefits provided or to be provided to a person under one or more –  (a) in respect of a registered insurer, assistance, life, disability or health policies; or  (b) in the case of a licensed insurer, policies written under the risk, fund risk, credit life, funeral, life annuities, individual investment or income drawdown class of life insurance business as set out in Table 1 of Schedule 2 of the Insurance Act,  in which that person or the spouse of that person is the life insured and which has or have been in force for at least three years (or the assets acquired exclusively with those policy benefits) shall, other than for a debt secured by the policy-  (i) during his or her lifetime, not be liable to be attached or subjected to execution under a judgment of a court or form part of his or her insolvent estate; or  (ii) upon his or her death, if he or she is survived by a spouse, child, stepchild or parent, not be available for the purpose of the payment of his or her debts.”. |
|  |  | 17. The substitution for section 66 of the following section:  **“66. Offences by persons other than long-term insurers**  (1) A person, other than a long-term insurer, who -  (a) contravenes or fails to comply with a provision of section 44(1), 45, 47 or 49; or  (b) furnishes false information in relation to an application for approval under a provision of this Act,  shall be guilty of an offence and liable on conviction to a fine not exceeding R5 million or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment.  (2) A person, other than a long-term insurer, who contravenes or fails to comply with a provision of section[8](http://discover.sabinet.co.za/webx/access/netlaw/52_1998_long_term_insurance_act.htm#section8)(3)shall be guilty of an offence and liable on conviction to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.”. |
|  |  | 18. The insertion in section 68 of the following section:  **“68. Penalty for failure to furnish the Authority with returns etc.**  (1)  (a) A person who fails to furnish the Authority with a return, information or document, as provided by this Act, within the specified period or the period determined by the Authority by notice on the official web site, or any extension thereof, shall, irrespective of any criminal proceedings instituted against the person under this Act, be liable to a penalty not exceeding R5 000 for every day during which the failure continues, unless the Authority, on good cause shown, waives the penalty or any part thereof.  (b) The amount referred to in paragraph (a) must be adjusted by the Authority annually in order to reflect the Consumer Price Index, as published by Statistics South Africa.  (2) A penalty contemplated in subsection (1) shall be imposed by notice by the Authority on the person concerned, and such imposition shall be preceded by the procedures determined by the Authority by notice on the official web site to afford such person a reasonable opportunity to be heard, and shall take effect on a date specified in such notice of the Authority which may be a date prior to the date of the notice.  (3) A penalty so imposed shall constitute a debt due to the Authority and shall be recoverable by action by the Authority in any court having jurisdiction.”. |
|  |  | 19. The amendment of section 72 by:   1. the substitution in subsection (1) for paragraph (b) of the following paragraph:   “(b) prescribing services performed by an independent intermediary or any other person on behalf of an insurer that will be subject to the regulations and setting out requirements that apply to such services;”;   1. the insertion in subsection (1) after paragraph (b) of the following paragraphs:   “(bA) prohibiting or limiting classes of persons from performing any service prescribed in accordance with paragraph (b);  (bB) prescribing governance, risk management, internal controls, oversight and operational ability requirements in relation to a service prescribed in accordance with paragraph (b);  (bC) prescribing requirements relating to notification to or approval by the Authority before entering into or terminating an arrangement in respect of any service prescribed in accordance with paragraph (b);  (bD) prescribing requirements, limitations or prohibitions in respect of any agreement relating to any service prescribed in accordance with paragraph (b);”;   1. the substitution in subsection (1) for paragraph (c) of the following paragraph:   “(c) prescribing different or additional requirements for the receipt or retention of, or dealing with money in respect of premiums;”;   1. the substitution in subsection (1) for paragraph (d) of the following paragraph:   “(d)(i) prohibiting or limiting the consideration which may be offered or provided; and  (ii) prescribing the timing, manner and conditions under which consideration may be offered or provided,  by or on behalf of a long-term insurer to an independent intermediary or any other person, for rendering services prescribed in accordance with paragraph (b), or to any other person associated in business with or related within the second degree of consanguinity or affinity to the independent intermediary or other person who has rendered or is to render such services;”;   1. the substitution in subsection (1) for paragraph (e) with the following paragraph:   “(e)(i) prohibiting consideration that may be accepted; and  (ii) prescribing the timing, manner and conditionsunder which consideration may be accepted,  by an independent intermediary or other person for rendering services prescribed in accordance with paragraph (b), or by any other person associated in business with or related within the second degree of consanguinity or affinity to the independent intermediary or other person who has rendered or is to render such services;”;  (f) the substitution in subsection (1)(gA) in subparagraph (v) of “.” with “; and”;  (g) the insertion in subsection (1)(gA) after subparagraph (v) of the following subparagraph:  “(vi) governance, risk management, internal controls, oversight and operational ability”; and  (h) the insertion in subsection (2) after paragraph (b) of the following paragraph:  “(bA) empower the Authority to prescribe matters specified in the Regulations; and”. |
|  |  | 20. The amendment of the Arrangement of Sections by –  (a) the deletion of all references to sections that are repealed by this Act;  (b) the substitution of section 8 with the following:  “8. Prohibition on performance of certain acts, by certain persons”; and  (c) the substitution of Part IV with the following:  “PART IV  RETURNS TO AUTHORITY”;  (d) inserting after “**47. Receipt for premium paid in cash, and validity of policy**” of the following:  “**47A. Collection of premiums by intermediaries**”. |
|  |  | 21. The substitution for the long title of the Act of the following:  “To provide fora legal framework for the regulation of conduct of business supervision of long-term insurers in the Republic, that is consistent, to the extent practicable, with international standards for insurance regulation and supervision; for the control of certain activities of long-term insurers and intermediaries; and for matters connected therewith.”. |
| 53 of 1998 | Short-term Insurance Act | 1. The substitution of all references in this Act to “Registrar” with “Authority”. |
|  |  | 2. The substitution for section 1 of the following section:  **“1. Definitions**  (1) In this Act, unless the context otherwise indicates —  **“accident and health policy”** means a contract in terms of which a person, in return for a premium, undertakes to provide policy benefits if a disability, health or death event contemplated in the contract as a risk event occurs, and includes a reinsurance policy in respect of such a contract—  (a) excluding any contract—  (i) that provides for the conduct of the business of a medical scheme referred to in section 1 (1) of the Medical Schemes Act; or  (ii) of which the policyholder is a medical scheme registered under the Medical Schemes Act and which contract—  (aa) relates to a particular member of the scheme or to the beneficiaries of such member; and  (bb) is entered into by the medical scheme to fund in whole or in part its liability to the member or the beneficiaries of the member referred to in subparagraph (aa) in terms of its rules; but  (b) specifically including, despite paragraph (a) (i), any category of contracts identified by the Minister by regulation under section 70 (2A) as an accident and health policy;;  **“Authority”** means the Financial Sector Conduct Authority established by the Financial Sector Regulation Act;  **“conduct standard”** has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;  **“death event”** means the event of the life of a person or an unborn having ended;  **“disability event”** means the event of the functional ability of the mind or body of a person or an unborn becoming impaired;  **“engineering policy”** means a contract in terms of which a person, in return for a premium, undertakes to provide policy benefits if an event contemplated in the contract as a risk relating to -  (a) the possession, use or ownership of machinery or equipment, other than a motor vehicle, in the carrying on of a business;  (b) the erection of buildings or other structures or the undertaking of other works; or  (c) the installation of machinery or equipment,  occurs; and includes a reinsurance policy in respect of such a policy;  **“Financial Sector Regulation Act”** means the Financial Sector Regulation Act, 2017;  **“guarantee policy”** means a contract in terms of which a person, other than a bank, in return for a premium, undertakes to provide policy benefits if an event, contemplated in the policy as a risk relating to the failure of a person to discharge an obligation, occurs; and includes a reinsurance policy in respect of such a policy;  **“health event”** means an event relating to the health of the mind or body of a person or an unborn;  **“independent intermediary”** has the meaning as prescribed in the regulations;  **“Insurance Act”** means the Insurance Act, 2017;  **“joint standard”** has the same meaning ascribed to it in terms of section 1(1) of the Financial Sector Regulation Act;  **“liability policy”** means a contract in terms of which a person, in return for a premium, undertakes to provide policy benefits if an event, contemplated in the contract as a risk relating to the incurring of a liability, otherwise than as part of a policy relating to a risk more specifically contemplated in another definition in this section, occurs; and includes a reinsurance policy in respect of such a policy;  **“licensed insurer”** means –  (a) a previously registered insurer as defined in Item 1 of Schedule 3 to the Insurance Act who has been granted a licence under section 23 of the Insurance Act within the period referred to in item 6.2(2) of Schedule 3 to the Insurance Act; or  (b) a person who has been licensed under section 23 or 24 of the Insurance Act on or after the date on which that Act commenced;  **“long-term insurer”** has the meaning assigned to it in the Long-term Insurance Act, 1998;  **“Medical Schemes Act”** means the Medical Schemes Act, 1998 (Act No. 131 of 1998);  **“Minister”** means the Cabinet member responsible for finance;  **“miscellaneous policy”** means a contract in terms of which a person, in return for a premium, undertakes to provide policy benefits if an event, contemplated in the contract as a risk relating to any matter not otherwise defined in this section, occurs; and includes a reinsurance policy in respect of such a policy;  **“motor policy”** means a contract in terms of which a person, in return for a premium, undertakes to provide policy benefits if an event, contemplated in the contract as a risk relating to the possession, use or ownership of a motor vehicle, occurs; and includes a reinsurance policy in respect of such a policy;  **“official web site”** means a web site of the Authority;  **“personal lines business”** means short-term insurance business in respect of which the policyholder is a natural person;  **“policy benefits”** means –  (a) in respect of a registered insurer, one or more sums of money, other than an annuity, or services or other benefits;  (b) in respect of a licensed insurer, benefits to which a person is contractually entitled to under a non-life insurance policy arising from an insurer’s insurance obligations;  **“policyholder”** in respect of a –  (a) registered insurer, means the person entitled to be provided with the policy benefits under a short-term policy;  (b) licensed insurer has the meaning assigned to in the Insurance Act;  **“premium”** in respect of a –  (a) registered insurer, means the consideration given or to be given in return for an undertaking to provide policy benefits;  (b) licensed insurer has the meaning assigned to in the Insurance Act;  **“property policy”** means a contract in terms of which a person, in return for a premium, undertakes to provide policy benefits if an event, contemplated in the contract as a risk other than a risk more specifically contemplated in another definition in this section relating to the use, ownership, loss of or damage to movable or immovable property occurs; and includes a reinsurance policy in respect of such a policy;  **“Register”** means the Financial Sector Information Register referred to in section 256 of the Financial Sector Regulation Act;  **“registered insurer”** means   1. a previously registered insurer as defined in item 1 of Schedule 3 to the Insurance Act for the period between the date on which the Insurance Act commenced and the previously registered insurer’s licence application referred to in item 6.(2) of Schedule 3 to the Insurance Act has been granted or not granted; or 2. for a period of 18 months after the effective date of the Insurance Act as referred to in item 11 of Schedule 3 of the Insurance Act, Lloyd’s or a Lloyd’s underwriter;   **“regulation”** means a regulation under section 70;  **“repealed Act”** means the Insurance Act, 1943 (Act No. 27 of 1943);  **“representative”** has the meaning as prescribed in the regulations;  **“risk”** means a possibility that a particular event may occur during the period for which a short-term policy is operative;  **“services as intermediary”** has the meaning as prescribed in the regulations;  **“short-term insurance business”** means –  (a) in respect of a registered insurer, the business of providing or undertaking to provide policy benefits under short-term policies;  (b) in respect of a licensed insurer, non-life insurance business as defined in section 1 of the Insurance Act;  **“short-term insurer”** means a registered insurer or a licensed insurer;  **“short-term policy”** means –  (a) in respect of a registered insurer, an engineering policy, guarantee policy, liability policy, miscellaneous policy, motor policy, accident and health policy, property policy or transportation policy or a contract comprising a combination of any of those policies; and includes a contract whereby any such contract is renewed or varied;  (b) in respect of a licensed insurer, a non-life insurance policy as defined in section 1 of the Insurance Act;  **“short-term reinsurance policy”** means –  (a) in respect of a registered insurer, a reinsurance policy in respect of a short-term policy;  (b) in respect of a licensed insurer, a non-life insurance policy written under the reinsurance class of non-life insurance business as set out in Table 1 of Schedule 2 of the Insurance Act;  **“this Act”** includes any regulation made, or matter prescribed under this Act;  **“transportation policy”** means a contract in terms of which a person, in return for a premium, undertakes to provide policy benefits if an event, contemplated in the contract as a risk relating to the possession, use or ownership of a vessel, aircraft or other craft or for the conveyance of persons or goods by air, space, land or water, or to the storage, treatment or handling of goods so conveyed or to be so conveyed, occurs; and includes a reinsurance policy in respect of such a policy;  **“Tribunal”** means the Financial Services Tribunal established in terms of section 219 of the Financial Sector Regulation Act;  **“unborn”** means a human foetus conceived but not born.  (2) For the purposes of entering into a short-term policy the life of an unborn shall be deemed to begin at conception.  (3) Unless the context otherwise indicates, words and expressions not defined in subsection (1) have the same meaning ascribed to them in terms of the Financial Sector Regulation Act or Insurance Act.  (4) A reference to statutory actuary in this Act must be construed as a reference to the head of the actuarial control function appointed by a short-term insurer in accordance with the Insurance Act.”. |
|  |  | 3. The amendment of section 1A by –  (a) the deletion of subsection (1);  (b) the substitution for subsection (4) of the following subsection –  “(4) Unless expressly provided otherwise in this Act, or this Act requires a matter to be prescribed by regulation, a reference in this Act to a matter being—  *(a)* prescribed must be read asa reference to the matter being prescribed in a conduct standard or a joint standard; or  *(b)* determined must be read as a reference to the Authority determining the matter in writing and registering the determination in the Register.”; and  (c) the substitution for subsection (7) of the following subsection –  “(7) The reference in section 3(3) to an appeal to the board of appeal established by section 26 of the Financial Services Board Act must be read as a reference to a reconsideration of the decision by the Tribunal in terms of the Financial Sector Regulation Act.”. |
|  |  | 4. The whole of sections 2(2), 2(3), 4(5), 4(7), 7, 8(1)*,* 9 – 34, 36 – 42, 46, 47, 51, 53, 54, 65, 67 – 69, and 70(2A), and Schedules 1 – 3 are hereby repealed. |
|  |  | 5. The whole of sections 56 to 63 and Schedule 3 are hereby repealed 18 months after the effective date of the Insurance Act. |
|  |  | 6. The amendment of section 3 by –  (a) the substitution in subsection (2)(b) for subparagraph (i) of the following subparagraph:  “(i) the fees determined under the Financial Sector Regulation Act; and”; and  (b) the substitution for subsection (4) of the following subsection:  “(4) A person may, upon payment of any fees determined under the Financial Sector Regulation Act**,** inspect only those documents determined by the Authority by notice on the official web site, which are held by the Authority under this Act in relation to a short-term insurer or an intermediary or, obtain a copy of or extract from any such document.”. |

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|  |  | 7. The amendment of section 8 by –  (a) the substitution of the heading of the section for the following heading:  “Prohibition on performance of certain acts, by certain persons”;  (b) the substitution in subsection (2) for paragraph (a) of the following paragraph:  “(a) short-term insurers, excluding Lloyd’s and Lloyd’s underwriters, are the only underwriters in terms of the short-term policy concerned;”;  (c) the substitution in subsection (2) for paragraph (b) of the following paragraph:  “(b) such person or another person has entered into a written agreement as referred to in section 48A(1) withLloyd’s underwriters for the performance of the function referred to in section 48A(1)(a) in relation to the short-term policy concerned, and Lloyd’s underwriters are the only underwriters in terms of the short-term policy concerned; or  ”;  (d) the deletion in subsection (2) of paragraph (c); and  (e) the substitution for subsection (4) of the following subsection:  “(4) Subsections (2) and (3) shall not apply in the case of a short-term reinsurance policy unless and to the extent that the Authority so determines by notice in the *Gazette*.”. |

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|  |  | 8. The substitution of the heading of Part IV for the following:  “RETURNS TO AUTHORITY”. |
|  |  | 9. The amendment of section 35 by –  (a) the substitution in subsection (1) of the words following paragraph (c) of the following words:  “determined by the Authority by notice on the official web site, either generally or in relation to a particular insurer.”; and  (b) the substitution in subsection (2) for the words preceding paragraph (a) of the following words:  "If the Authority is satisfied that a return furnished to it in terms of subsection (1) is incomplete or incorrect, it may, by notice –”. |
|  |  | 10. The substitution for section 44 of the following section –  **“44. Prohibition on inducements**  (1) Unless done in accordance with the rules prescribed under section 55, no person shall provide, or offer to provide, directly or indirectly, any valuable consideration as an inducement to a person to enter into, continue, vary or cancel a short-term policy.  (2) Subsection (1) shall not apply in the case of a short-term reinsurance policy unless and to the extent that the Authority so determines by notice in the *Gazette*.”. |
|  |  | 11. The substitution for section 45 of the following section –  **“45. Collection of premiums by intermediaries**   1. No independent intermediary shall receive, hold or in any other manner deal with premiums payable under a short-term policy entered into or to be entered into with a short-term insurer and no such short-term insurer shall permit such independent intermediary to so receive, hold or in any other manner deal with such premiums -   (a) unless authorised to do so by the short-term insurer concerned as prescribed by regulation; and  (b) otherwise than in accordance with the regulations.  (2) Subsection (1) shall not apply in the case of a short-term reinsurance policy unless and to the extent that the Authority so determines by notice in the *Gazette*.”. |
|  |  | 12. The substitution for section 48 of the following section:  **“48. Limitation of remuneration**  No consideration shall be –  (a) offered or provided by a short-term insurer or a person on behalf of a short-term insurer to an independent intermediary or any other person; or  (b) accepted by an independent intermediary or other person,  for rendering services referred to in the regulations, other than commission or remuneration contemplated in the regulations and otherwise than in accordance with the regulations.”. |
|  |  | 13.The amendment of section 48A by –  (a) The substitution of all references in this section to “short-term insurer or a Lloyd’s underwriter” with “short-term insurer”;  (b) the substitution for subsection (1) of the following subsection:  “(1) A short-term insurer may, in terms of a written agreement only, and in accordance with any requirements, limitations or prohibitions that may be prescribed by regulation, allow another person to do any one or more of the following on behalf of that insurer:  (a) Enter into, vary or renew a short-term policy on behalf of that insurer;  (b) determine the wording of a short-term policy;  (c) determine premiums under a short-term policy;  (d) determine the value of policy benefits under a short-term policy;  (e) settle claims under a short-term policy.”; and  (c) the insertion after subsection (1) of the following subsection:  “(1A) Subsection (1) shall not apply in the case of a short-term reinsurance policy unless and to the extent that the Authority so determines by notice in the *Gazette*.”. |
|  |  | 14. The substitution of section 50 for the following section:  “**50. Limitation on policy benefits in the event of death of unborn or of certain minors**  A short-term insurer shall not undertake to provide, or provide, policy benefits, in terms of –  (a) in respect of a registered insurer, an accident and health policy; or  (b) in respect of a licensed insurer, a non-life policy written under the accident and health class of non-life insurance business as set out in Table 2 of Schedule 2 of the Insurance Act,  in the event of the death of an unborn, or of a minor before that minor attains the age of 14 years, the value of which, on its own or when added to the value of policy benefits which to its knowledge are to be provided in that event by a short-term insurer or a long term insurer or a friendly society in terms of any policy, exceeds, in the event of the death -  (c) of that unborn, or of that minor before he or she attains the age of six years, R20 000; or  (d) of that minor after he or she attains the age of six years but before he or she attains the age of 14 years, R50 000,  or such other amount prescribed by the Minister.”. |
|  |  | 15. The amendment of section 55 by:  (a) the substitution in subsection (1) for paragraph (a) of the following paragraph:  “(a) prescribe rules not inconsistent with this Act, aimed at ensuring for the purpose of policyholder protection that policies are entered into, executed and enforced in accordance with sound insurance principles and practice in the interests of the parties and in the public interest generally;”;  (b) the substitution in subsection (2) for paragraph (b) of the following paragraph:  “(b) that the policy and particular information in relation to a policy shall be made known in a particular manner to prospective policyholder or policyholder, and what the legal consequences shall be if that is not done;”;  (c) the substitution in subsection (2) for paragraph (e) of the following paragraph:  “(e) for standardised wording, definitions or provisions that must be or may not be included in policies;”;  (d) the insertion in subsection (2) after paragraph (e) of the following paragraphs:  “(f) for principles and requirements relating to any advertisement, brochure or similar communication which relates to the business of a short-term insurer, or to a short-term policy;  (g) for principles and requirements relating to claims handling, complaints handling and dispute resolution applicable to short-term insurers;  (h) for principles and requirements relating to the manner and form in which policy benefits must be provided;  (i) for principles and requirements relating to misrepresentation in relation to a short-term policy;  (j) for requirements relating to the validity of a contract under a short-term policy;  (k) for principles and requirements relating to non-payment of premiums and grace periods in relation to a short-term policy, and related disclosures to policyholders;  (l) for principles and requirements relating to insurance product design and ongoing review of insurance product performance to ensure the fair treatment of policyholders;  (m) for principles and requirements relating to a short-term insurers dealings with intermediaries;  (n) for principles and requirements relating to data management in order to appropriately identify, assess, measure and manage the conduct of business risks associated with its insurance business to ensure the fair treatment of policyholders; and  (o) for principles and requirements relating to the termination of policies.”;  (e) the substitution for subsection (3) of the following subsection:  “(3) Rules referred to in subsection (2) may —  (a) apply generally;  (b) be limited in application to a particular kind or type of policies, short-term insurers or short-term insurance business; or  (c) differentiate between different kinds of insurers, policies, contracts and services.”; and  (f) the substitution for subsection (5) of the following subsection:  “(5) Any rule promulgated by the Minister prior to the commencement of the Financial Services Laws General Amendment Act, 2013, must be regarded as having been prescribed under this section, and remains valid and enforceable until repealed or amended by the Authority.”. |
|  |  | 16. The substitution for section 64 of the following section:  **“64. Offences by persons other than short-term insurers**  (1) A person, other than a short-term insurer, who -  (a) contravenes or fails to comply with a provision of section 43(1), 44, [45](http://discover.sabinet.co.za/webx/access/netlaw/53_1998_short_term_insurance_act.htm#section45)or 48;  (b) furnishes false information in relation to an application for approval under a provision of this Act,  shall be guilty of an offence and liable on conviction to a fine not exceeding R5 million or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment.  (2) A person, other than a short-term insurer, who contravenes or fails to comply with a provision of section[8](http://discover.sabinet.co.za/webx/access/netlaw/53_1998_short_term_insurance_act.htm#section8)(2) shall be guilty of an offence and liable on conviction to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.”. |
|  |  | 17. The insertion of section 66 of the following section:  **“66. Penalty for failure to furnish the Authority with returns etc.**  (1)(a) A person who fails to furnish the Authority with a return, information or document, as provided by this Act, within a specified period or the period determined by the Authority by notice on the official web site, or any extension thereof, shall, irrespective of any criminal proceedings instituted against the person under this Act, be liable to a penalty not exceeding R5 000 for every day during which the failure continues, unless the Authority, on good cause shown, waives the penalty or any part thereof.  (b) The amount referred to in paragraph (a) must be adjusted by the Authority annually in order to reflect the Consumer Price Index, as published by Statistics South Africa.  (2) A penalty contemplated in subsection (1) shall be imposed by notice by the Authority on the person concerned, and such imposition shall be preceded by the procedures determined by the Authority by notice on the official web site to afford such person a reasonable opportunity to be heard, and shall take effect on a date specified in such notice of the Authority which may be a date prior to the date of the notice.  (3) A penalty so imposed shall constitute a debt due to the Authority and shall be recoverable by action by the Authority in any court having jurisdiction.”. |
|  |  | 18. The amendment of section 70 by:  (a) The insertion of the subsection number “(1)” before the words “The Minister may make regulations not inconsistent with this Act –”;  (b) the substitution in subsection (1) for paragraph (b) of the following paragraph:  “(b) prescribing services performed by an independent intermediary or any other person on behalf of an insurer that are subject to the regulations, and setting out requirements that apply to such services;”;  (c) the insertion in subsection (1) after paragraph (b) of the following paragraphs:  “(bA) prohibiting or limiting classes of persons from performing any service prescribed in accordance with paragraph (b);  (bB) prescribing governance, risk management, internal controls, oversight and operational ability requirements in relation to a service prescribed in accordance with paragraph (b);  (bC) prescribing requirements relating to notification to or approval by the Authority before entering into or terminating an arrangement in respect of any service prescribed in accordance with paragraph (b);  (bD) prescribing requirements, limitations or prohibitions in respect of any agreement relating to any service prescribed in accordance with paragraph (b);”;  (d) the substitution in subsection (1) for paragraph (c) of the following paragraph:  “(c) prescribing periods within which policies and amended policies are to be issued;”;  (e) the substitution in subsection (1) for paragraph (e) of the following paragraph:  “(e)(i) prohibiting or limiting the consideration which may be offered or provided; and  (ii) prescribing the timing, manner and conditions under which consideration may be offered or provided,  by or on behalf of a short-term insurer to an independent intermediary or any other person, for rendering services prescribed in accordance with paragraph (b), or to any other person associated in business with or related within the second degree of consanguinity or affinity to the independent intermediary or other person who has rendered or is to render such services;”;  (f) the substitution in subsection (1) for paragraph (f) of the following paragraph:  “(f)(i) prohibiting consideration that may be accepted; and  (ii) prescribing the timing, manner and conditions under which consideration may be accepted,  by an independent intermediary or other person for rendering services prescribed in accordance with paragraph (b), or by any other person associated in business with or related within the second degree of consanguinity or affinity to the independent intermediary or other person who has rendered or is to render such services;”;  (g) the insertion in subsection (1) after paragraph (f) of the following paragraphs:  “(f*A*) prescribing different classes of persons to whom consideration contemplated in paragraphs (e) and (f) may be offered or provided, for such services rendered or to be rendered;”;  (h) the substitution in subsection (1)(gA) for subparagraph (iii) of the following subparagraph:  “(iii) any consideration that may be offered or provided from, by or on behalf of a short-term insurer to a person that enters into an agreement contemplated in section 48A(1) with a short-term insurer;”;  (i) the substitution in subsection (1)(gA) for subparagraph (v) of the following subparagraph:  “(v) the circumstances under which a person who has entered into an agreement contemplated in section 48A(1) may render services in respect of a policy not referred to that person by the relevant insurer or an independent intermediary; and”;  (j) the insertion in subsection (1)(gA) after subparagraph (v) of the following subparagraph:  “(vi) governance, risk management, internal controls, oversight and operational ability;”and  (k) the insertion in subsection (2) after paragraph (b) of the following paragraph:  “(bA) empower the Authority to prescribe certain matters as specified in the Regulations; and”. |
|  |  | 19. The amendment of the Arrangement of Sections by –  (a) the deletion of all references to sections that are repealed by this Act;  (b) the substitution of section 8 with the following:  “8. Prohibition on performance of certain acts, by certain persons”; and  (c) the substitution of Part IV with the following:  “PART IV  RETURNS TO AUTHORITY”. |
|  |  | 20. The substitution for the long title of the Act of the following:  “To provide for a legal framework for the regulation of conduct of business supervision of short-term insurers in the Republic, that is consistent, to the extent practicable, with international standards for insurance regulation and supervision; for the control of certain activities of short-term insurers and intermediaries; and for matters connected therewith.”. |

**SCHEDULE 3**

**TRANSITIONAL ARRANGEMENTS**

KEY: Amendments emanating from public comments are in tracked changes.

**Definitions and interpretation**

1. (1) In this Schedule, unless the context indicates otherwise—

**‘‘effective date’’** means the date fixed by the Minister in accordance with section 73(1) as the date that this Act comes into operation;

**‘‘previous Act’’** means the Long-term Insurance Act, 1998 (Act No. 52 of 1998), the Short-term Insurance Act, 1998 (Act No. 53 of 1998), or both, as the case may be; and

**‘‘previously registered insurer’’** means an insurer registered or deemed to have been registered under the previous Act.

(2) A reference in this Schedule to an item or a sub-item by number is a reference to the corresponding item or sub-item of this Schedule.

**Repeal of matters prescribed under previous Act and savings**

**2.** (1) Any matter prescribed by the Minister under a section of a previous Act in respect of the prudential supervision of insurers before the section was amended or repealed is hereby repealed, including Part 2 of the Regulations under the Long-term Insurance Act, 1998 (Act No. 52 of 1998), and Parts 2 and 3 of the Regulations under the Short-term Insurance Act, 1998 (Act No. 53 of 1998).

(2 Despite sub-item (1), any Regulations made under section 72(2A) of the Long-term Insurance Act, 1998 and section 70(2A) of the Short-term Insurance Act, 1998 prior to the repeal thereof by this Act must be regarded as having been made under section 69(1) of this Act and remains valid and enforceable until repealed or amended by the Minister.

**Pending matters**

**3**. Any matter relating to prudential supervision pending before the Registrar under the previous Act immediately before the effective date and not fully addressed at that time, must be concluded by the Prudential Authority in terms of that previous Act, despite its amendment.

**Preservation and continuation of court proceedings and orders**

**4**. (1) Any proceedings in any court in terms of the previous Act immediately before the effective date are continued in terms of that Act, as if it had not been amended.

(2) Any order of a court in terms of the previous Act, and in force immediately before the effective date, continues to have the same force and effect as if that Act had not been amended, subject to any further order of the court.

**Continued investigation and enforcement of previous Act**

**5**. (1) Despite the partial repeal of the previous Act—

*(a)* any investigation or inspection under the previous Act by the Registrar in respect of compliance with the previous Act and pending immediately before the effective date, may be continued by the Prudential Authority, and the Prudential Authority may take any regulatory action under those Acts that the Prudential Authority deems appropriate in respect of any non-compliance; and

*(b)* for a period of three years after the effective date, the Prudential Authority may initiate an investigation or inspection under the Financial Sector Regulation Act in respect of any suspected non-compliance with the previous Act that occurred during the period of three years immediately before the effective date, and may take any regulatory action under those Acts that the Prudential Authority deems appropriate in respect of that non-compliance.

**Continuation of previously registered insurers**

**6**. (1) As of the effective date, every previously registered insurer that was, immediately before that date, registered as a long-term insurer or a short-term insurer under the previous Act continues to exist as an insurer, as if it had been licensed under this Act, and may continue to conduct the insurance business for which it was so registered until its registration is converted to a licence under this Act during the period of two years referred to in subitem (2), subject to and in accordance with the governance, financial soundness, security, reporting and public disclosure obligations imposed under this Act.

(2) The Prudential Authority must, subject to subitem (4), within a period of two years after the effective date, convert the registration of all previously registered insurers to a licence in accordance with this Act.

(3) (a) The Prudential Authority must, within two months of the effective date, publish the process the Prudential Authority will implement to give effect to subitem (2).

(b) The process referred to in paragraph (a) must be –

(i) reasonable and fair; and

(ii) allow for sufficient engagement with a previously registered insurer.

(4) (a) The Prudential Authority must convert the registration of a previously registered insurer to a license to conduct a class and sub-class of life insurance business or non-life insurance business referred to in Schedule 2 to the Act if the previously registered insurer, immediately prior to the effective date, were actively and prudently conducting insurance business similar to that class or sub-class of insurance business.

(b) Despite paragraph (a) and subject to any limitations relating to a type or kind or insurer or insurance business provided for in the Act, a previously registered insurer who applies for the conversion of its registration to a license to conduct -

(i) life insurance business must only be licensed to conduct a class or sub-class of life insurance business referred to in Table 1 of Schedule 2; and

(ii) non-life insurance business must only be licensed to conduct a class or sub-class of life non-insurance business referred to in Table 2 of Schedule 2.

(5) If the Prudential Authority does not convert the registration of a previously registered insurer to a licence to conduct insurance business in respect of a specific class or sub-class set out in Schedule 2 that is similar to the business that the previously registered insurer was registered for on the effective date because –

*(a)* the insurer did not immediately prior to the effective date conduct that insurance business; or

*(b)* of the application of subitem 4(b),

the Prudential Authority must direct the insurer to make arrangements to the satisfaction of the Prudential Authority to—

(i) discharge its obligations under all insurance policies entered into in respect of that classes or sub-classes before the conversion of that insurer’s registration;

(ii) ensure the orderly resolution of that insurance business of the insurer; or

(iii) transfer that insurance business to another insurer under section 50 of this Act by a specified date.

(6) Section 23(5)*(a)* comes into effect six months after the date on which a previously registered insurer’s registration is converted to a license.

**Maintenance of financial soundness**

**7**. (1) A previously registered insurer that immediately after the effective date fails to comply with the financial soundness requirements must submit a scheme or strategy referred to in section 39 of this Act to the Prudential Authority in accordance with that section, subject to that insurer holding capital of at least R 10 million.

(2) Despite subitem (1), any reinsurance arrangement entered into with an insurer or reinsurer located in a foreign jurisdiction may continue until the previously registered insurer’s registration under the previous Act is converted to a licence under this Act during the period of two years referred to in item 6(2) despite that foreign jurisdiction not having been determined by the Prudential Authority as equivalent.

**Reporting**

**8**. A previously registered insurer whose 2017 financial year end falls before the effective date, must, despite the effective date, comply with the reporting obligations imposed under this Act in respect of that financial year.

**Key persons and significant owners other than representatives, deputy representatives of Lloyd’s and trustees of Lloyd’s trust**

**9**. (1) Any person appointed as a key person and any significant owner of an insurer immediately before the effective date is deemed to meet the fit and proper requirements of this Act, subject to the requirements of this Act.

(2) Despite sub-item (1), the Prudential Authority may act in accordance with section 19 if the Prudential Authority reasonably believes that a key person or significant owner does not comply or no longer complies with the prescribed fit and proper requirements.

(3) The Prudential Authority must, when considering the conversion of the registration of a previously registered insurer —

*(a)* approve the directors and auditor of the insurer; and

*(b)* require the previously registered insurer to demonstrate and certify that its key persons (other than directors and auditor) and significant owners meet the prescribed fit and proper requirements.

**Conducting of business other than insurance business inside Republic and conducting of any other business outside Republic**

**10**. (1) As of the effective date, subject to subitem (3) below, every previously registered insurer that, immediately before that date, was conducting any business other than insurance business in the Republic or conducting any business, including business similar to insurance business, outside the Republic, may continue to conduct that business until its registration under the previous Act is converted to a licence under this Act.

(2) A previously registered insurer must, as part of the process referred to in item 6(3)(a) apply for approval to conduct—

*(a)* any business other than insurance business in the Republic, including any business performed on behalf of another person; or

*(b)* any business, including business similar to insurance business, outside the Republic.

(3) If the Prudential Authority does not approve the business referred to in sub-item (2), the Prudential Authority must direct the insurer to make arrangements to the satisfaction of the Prudential Authority to ensure the orderly resolution or transfer of that business of the insurer.

**Lloyd’s**

**11**. (1) *(a)* The requirements of Part 8 of the previous Act continue to apply to Lloyd’s and Lloyd’s underwriters for a period of 18 months after the effective date.

*(b)* Any sections of the previous Act that did not apply to Lloyd’s and Lloyd’s underwriter prior to the amendment of that Act by Schedule 1 to this Act continues not to apply to Lloyd’s and Lloyd’s underwriter for a period of 18 months only after the effective date.

(2) Lloyd’s must, within three months after the effective date, submit a plan to the Prudential Authority demonstrating how compliance with this Act will be achieved within 18 months after the effective date.

**Insurance groups**

**12**. A previously registered insurer that is part of a group of companies must, within two months of the effective date, notify the Prudential Authority thereof, and provide the Prudential Authority with detailed information on the structure of the group of companies, its holding company and intra-group transactions.

**Delays and exemptions**

13. The Prudential Authority, to facilitate the incremental implementation of this Act, may, by notice in the Gazette—

*(a)* delay the implementation of a provision of this Act for a transitional period not exceeding two years from the date when that section takes effect; or

*(b)* where practicalities require the progressive or incremental application of a specific provision of this Act, exempt any insurer, controlling company, key person or significant owner from that provision for a period and on conditions determined in the notice.