

Mr NM Nene
Chairperson: Portfolio Committee on Finance
c/o Bradley Viljoen
PO Box 15
Cape Town 8000
RSA

VIA EMAIL AND FAX

23 May 2008

Dear Mr Nene

INSURANCE LAWS AMENDMENT BILL

Lloyd's is grateful for the opportunity to comment on the recently published Insurance Laws Amendment Bill (the Bill).

Lloyd's is supportive of Treasury's stated objective for the Bill of strengthening the legislative framework and providing financial market stability. Lloyd's recognises the work done in attempting to rectify ambiguities and inconsistencies within the current legislation.

However there are several areas in the Bill where Lloyd's seeks clarification and would like to express concern. As a member of the South African Insurance Association (SAIA), we have been included in their industry consultation and broadly support the comments contained in their submission relating to areas impacting the wider industry.

This submission addresses areas which are of particular importance and concern to Lloyd's.

Lloyd's Provisions

The Bill as currently drafted provides for the provisions relating to Lloyd's (contained within Schedule 3) to be transferred from legislation into regulation. It is our understanding that the intention behind this is not to make changes to Lloyd's provisions, but simply to effect greater regulatory flexibility and rectify the current need for changes to be reflected in amendments to legislation. We are yet to receive sight of the regulations and therefore would be grateful for urgent confirmation that there are no changes, current or proposed, to Lloyd's provisions. Lloyd's is prepared to discuss this further with the Registrar if so required.

Accident and Health Policies

Lloyd's believes that the proposed definition of an accident and health policy would benefit from further consideration. As one of the proposed objectives of the bill is to further regulate the option for payment of assistance benefits in money, Lloyd's believes it is vital that there

is a clear, specific definition of what constitutes an accident and health policy, as the current amendments leave this open to ambiguity and confusion.

Further to the above, we have consulted Lloyd's underwriters for their comments on this section. Lloyd's underwriters believe that restricting the provision of cover ultimately reduces the product and cost options available to South African policyholders. Lloyd's requests that the Registrar take into account the unintended negative impact on South African policyholders that the current amendments may cause.

Binding Agreements

Lloyd's is concerned that the proposed amendments under s 49A(g)(i) and (ii) do not accurately reflect the true nature of Lloyd's underwriting members' coverage of South African risks. As currently drafted, the amendments could require several hundred underwriting members to be disclosed, or named in communication, which would be subject to annual changes. Lloyd's instead proposes that for clarity the following language is used:

s 49A(g)(i)(aa) 'the name of the relevant short-term insurer, or in the case of Lloyd's underwriters, the term 'certain underwriters at Lloyd's', and that the other person is acting in terms of an agreement contemplated in this section'

s 49A(g)(ii) 'include the name of the short-term insurer, or in the case a Lloyd's underwriter, the term 'certain underwriters at Lloyd's', in any advertisement...'

Directives

Lloyd's is concerned that the proposed amendments to s 64 and s65 now give an extremely broad definition to the Act, whereby breaches can result in punitive measures. We are strongly of the view that regulations must have clearly stated parameters, particularly where breaches may result in criminal prosecution. Lloyd's petitions the Committee strongly to clarify the amendments in this respect.

Lloyd's Representative

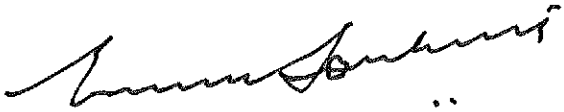
It is our understanding that the current amendments to s 57 regarding the Lloyd's representative show a typographical error and that the intention was for the amendments to read as follows: 'Section 57 of the Short-term Insurance Act, 1998, is hereby amended by the substitution for subsection (5) of the following subsection...'. We would be grateful for confirmation of this.

Timeframe

Lloyd's would like to express our dismay at the extremely short time frame for consultation. Despite the Memorandum attached to the Bill stating that 30 days would be given to the public, the Bill was published on 9 May with submissions due 23 May. We believe that the two-week time frame has not allowed thorough review and consultation with industry, which the substantial proposed amendments most definitely warrant. Further, we would like to refer Treasury to the IAIS Insurance Core Principles and Methodology (October 2003) which highlights the importance of meaningful public consultation on the development of supervisory policies, and in the establishment of new and amended rules and regulations, and the establishment of clear timelines for public consultation and action, where appropriate. Lloyd's urges further consultation regarding the proposed amendments.

We thank you again for the opportunity to comment and please contact us if you require clarification on any of the issues raised.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'E.M. Southey', written in black ink.

E.M. Southey
Lloyd's General Representative in South Africa