



Number 42 of 2000

INSURANCE ACT, 2000

ARRANGEMENT OF SECTIONS

PART 1

PRELIMINARY AND GENERAL

Section

1. Short title, collective citation and commencement.
2. Interpretation.

PART 2

THE INSURANCE ACTS

CHAPTER 1

Amendments of Act of 1989

3. Amendment of section 2 of Act of 1989 (Interpretation).
4. Amendment of section 3 of Act of 1989 (Offences and penalties).
5. Amendment of section 22 of Act of 1989 (Reinsurance).
6. Amendment of Act of 1989: insertion of section 22A (Application of Act to reinsurance).
7. Amendment of Act of 1989: insertion of Part IIIA (Provision of information).
8. Repeal of Part IV of Act of 1989 (Regulation of insurance intermediaries).
9. Amendment of section 59 of Act of 1989 (Appointment of authorised officers).
10. Amendment of section 60 of Act of 1989 (Powers of authorised officers).

Section

11. Amendment of Second Schedule to Act of 1989 (Increase of penalties).
12. Amendment of Act of 1989: Third Schedule (Information for policy holders).

CHAPTER 2

Amendment of Insurance Act, 1936

13. Repeal of section 110 of Insurance Act, 1936 (Time limit for prosecution of offences).

CHAPTER 3

Miscellaneous Revocations

14. Revocation and transitional provisions: Life Regulations of 1994.
15. Revocation: authorised officers.

PART 3

AMENDMENTS OF ACT OF 1995

16. Amendment of section 2 of Act of 1995 (Interpretation).
17. Amendment of Act of 1995: insertion of section 13A (Existing insurance intermediaries).
18. Amendment of section 16 of Act of 1995 (Revocation of authorisation).
19. Amendment of section 17 of Act of 1995 (Register of investment business firms).
20. Amendment of section 21 of Act of 1995 (Directions by supervisory authority).
21. Amendment of section 25 of Act of 1995 (Definition of “investment product intermediary”).
22. Amendment of Part IV of Act of 1995 (Investment product intermediaries).
23. Amendment of section 26 of Act of 1995 (Definition of restricted activity investment product intermediaries).
24. Amendment of section 27 of Act of 1995 (Requirements for investment product intermediaries).
25. Amendment of section 28 of Act of 1995 (Obligations on product producers).
26. Disclosure obligations of restricted activity investment product intermediaries.

[2000.] *Insurance Act, 2000.* [No. 42.]

Section

27. Amendment of section 30 of Act of 1995 (Issue of receipts).
28. Amendment of section 31 of Act of 1995 (Register of investment product intermediaries).
29. Amendment of Act of 1995: insertion of section 31A (Scope of Part IV).
30. Amendment of section 37 of Act of 1995 (Code of conduct).
31. Repeal of section 51(5)(e) of Act of 1995 (Bonding).
32. Amendment of section 65 of Act of 1995 (Powers of authorised officers).
33. Amendment of section 74 of Act of 1995 (Power to make determinations for breaches of conditions or requirements).

PART 4

AMENDMENT OF CENTRAL BANK ACT, 1989

34. Amendment of section 16 of Central Bank Act, 1989 (Disclosure of information).

SCHEDULE 1

SCHEDULE 2

[No. 42.]

Insurance Act, 2000.

[2000.]

ACTS REFERRED TO

Assurance Companies Act, 1909	1909, 9 Edw. 7. c. 49
Central Bank Act, 1989	1989, No. 16
Central Bank Act, 1997	1997, No. 8
Companies Act, 1990	1990, No. 27
Data Protection Act, 1988	1988, No. 25
European Communities Act, 1972	1972, No. 27
European Communities (Amendment) Act, 1993	1993, No. 25
Insurance Act, 1936	1936, No. 45
Insurance Act, 1989	1989, No. 3
Insurance Acts, 1909 to 1990	
Investment Intermediaries Act, 1995	1995, No. 11
Investor Compensation Act, 1998	1998, No. 32
Pensions Act, 1990	1990, No. 25
Petty Sessions (Ireland) Act, 1851	1851, 14 & 15 Vict., c. 93
Solicitors Acts, 1954 to 1994	
Transport (Tour Operators and Travel Agents) Act, 1982	1982, No. 3



Number 42 of 2000

INSURANCE ACT, 2000

AN ACT TO PROVIDE FOR THE AUTHORISATION AND SUPERVISION OF INSURANCE INTERMEDIARIES BY THE CENTRAL BANK OF IRELAND AND TO ENABLE FURTHER EFFECT TO BE GIVEN TO COUNCIL DIRECTIVE NO. 92/96/EEC OF 10 NOVEMBER 1992 AND FOR THOSE PURPOSES AND FOR THE PURPOSE OF PROVIDING FOR THE DISCLOSURE OF INFORMATION IN RELATION TO LIFE ASSURANCE AND NON-LIFE INSURANCE TO AMEND THE INSURANCE ACT, 1989, AND THE INVESTMENT INTERMEDIARIES ACT, 1995, AND TO PROVIDE FOR RELATED MATTERS.

[20th December, 2000]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Insurance Act, 2000.

(2) This Act (other than *sections 16 to 33*) and the Insurance Acts, 1909 to 1990, may be cited together as the Insurance Acts, 1909 to 2000.

(3) This Act (other than *sections 3 to 15*), the Investment Intermediaries Act, 1995, sections 37 to 49 of the Central Bank Act, 1997, and section 44 and sections 52 to 69 of the Investor Compensation Act, 1998, may be cited together as the Investment Intermediaries Acts, 1995 to 2000.

(4) (a) Subject to *subsection (5)*, this Act shall come into operation on such day or days as, by order or orders made by the Minister for Enterprise, Trade and Employment, may be appointed either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes and different provisions.

Short title,
collective citation
and
commencement.

[No. 42.] *Insurance Act, 2000.* [2000.]

Pt.1 S.1

(b) An order under this subsection may, as respects the repeal of Part IV of the Act of 1989 effected by *section 8* of this Act, fix different days for the repeal of different provisions of the said Part IV or for the repeal for different purposes of any such provision.

(5) The Minister for Enterprise, Trade and Employment shall consult with the Minister for Finance before making an order under *subsection (4)* with respect to *sections 16 to 33* of this Act.

Interpretation.

2.—(1) In this Act—

“Act of 1989” means the Insurance Act, 1989;

“Act of 1995” means the Investment Intermediaries Act, 1995.

(2) A reference in this Act to any enactment shall be construed as a reference to that enactment as amended, extended or adapted by or under any subsequent enactment including this Act.

PART 2

THE INSURANCE ACTS

CHAPTER 1

Amendments of Act of 1989

Amendment of
section 2 of Act of
1989
(Interpretation).

3.—Section 2 of the Act of 1989 is hereby amended in subsection (1)—

(a) by the substitution of the following for the definition of “authorisation”:

“‘authorisation’ means an authorisation granted by the Minister under the Regulations of 1976, the Regulations of 1984, the Non-Life Regulations of 1994 or the Life Regulations of 1994 to carry on a specified class or description of insurance business;”,

(b) by the deletion of the definition of “client”,

(c) by the substitution of the following for the definition of “the Insurance Acts”:

“‘the Insurance Acts’ means the *Insurance Acts, 1909 to 2000*, regulations made under those Acts and regulations relating to insurance made under the European Communities Act, 1972;”,

(d) by the substitution of the following for the definition of “insurance agent”:

“‘insurance agent’ has the same meaning as in the Investment Intermediaries Act, 1995;”,

(e) by the substitution of the following for the definition of “insurance broker”:

“‘insurance broker’ has the same meaning as in the Investment Intermediaries Act, 1995;”,

[2000.] *Insurance Act, 2000.* [No. 42.]

(f) by the substitution of the following for the definition of Pr.2 S.3 “insurance intermediary” or “intermediary”:

“‘insurance intermediary’ or ‘intermediary’ has the same meaning as an insurance intermediary under the Investment Intermediaries Act, 1995;”

(g) by the insertion of the following after the definition of “insurance intermediary”:

“‘insurance undertaking’ or ‘undertaking’ means—

(a) the holder of an authorisation as defined in this section,

(b) the holder of an official authorisation granted pursuant to—

(i) Council Directive No. 73/239/EEC of 24 July 1973¹ as amended or extended from time to time,

(ii) Council Directive No. 79/267/EEC of 5 March 1979² as amended or extended from time to time, or

(iii) the Swiss Confederation Agreement as defined in the European Communities (Swiss Confederation Agreement) Regulations, 1996 (S.I. No. 25 of 1996),

(c) the holder of an official authorisation to undertake insurance in Iceland, Liechtenstein or Norway pursuant to the EEA Agreement within the meaning of the European Communities (Amendment) Act, 1993, or

(d) an insurance undertaking to which Article 6(4) of the Non-Life Regulations of 1994 applies;”

(h) by the substitution of the following for the definition of “insurer”:

“‘insurer’ has the same meaning as insurance undertaking;”

(i) by the substitution of the following for the definition of “life assurance”:

“‘life assurance’ means insurance of a class specified in Part A of Annex I to the Life Regulations of 1994;”

(j) by the insertion of the following after the definition of “life assurance”:

“‘the Life Regulations of 1994’ means the European Communities (Life Assurance) Framework Regulations, 1994 (S.I. No. 360 of 1994);”

¹OJ No. L 228/3, 16.08.73

²OJ No. L 63/1, 13.03.79

PT.2 S.3

(k) by the substitution of the following for the definition of “non-life insurance”:

“‘non-life insurance’ means insurance of a class specified in Part A of Annex I to the Non-Life Regulations of 1994;”

(l) by the insertion of the following after the definition of “non-life insurance”:

“‘the Non-Life Regulations of 1994’ means the European Communities (Non-Life Insurance) Framework Regulations, 1994 (S.I. No. 359 of 1994);”

and

(m) by the deletion of the definition of “undertaking”.

Amendment of section 3 of Act of 1989 (Offences and penalties).

4.—Section 3 of the Act of 1989 is hereby amended by the substitution of the following for subsection (2):

“(2) A person guilty of an offence under this Act shall be liable—

(a) on summary conviction, to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months, or to both, or

(b) on conviction on indictment, to a fine not exceeding £50,000 or to imprisonment for a term not exceeding 5 years, or to both.

(2A) Where a person, after conviction for an offence under this Act, continues to contravene the provision concerned, such person shall be guilty of an offence on every day on which the contravention continues and for each such offence shall be liable to a fine—

(a) on summary conviction, not exceeding £200, or

(b) on conviction on indictment, not exceeding £5,000.

(2B) Summary proceedings for an offence under this Act may be brought by the Minister.

(2C) Notwithstanding the provisions of section 10(4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under the Insurance Acts may be commenced—

(a) at any time within 2 years from the date on which the offence was committed, or

(b) at any time within 6 months from the date on which evidence sufficient, in the opinion of the person by whom the proceedings are initiated, to justify the proceedings, comes to such person’s knowledge,

whichever is the later, provided that no such proceedings shall be commenced later than 5 years from the date on which the offence concerned was committed.

(2D) Where a person is convicted of an offence under the Insurance Acts the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the

[2000.]

Insurance Act, 2000.

[No. 42.]

person to pay to the Minister the costs and expenses, measured by the court, incurred by the Minister in relation to the investigation, detection and prosecution of the offence.”.

Pr.2 S.4

5.—Section 22 of the Act of 1989 is hereby amended by the substitution of the following for subsection (1):

Amendment of section 22 of Act of 1989 (Reinsurance).

“(1) Subject to subsection (1A), it shall not be lawful for a company registered in the State or any other person operating in the State to carry on, in the State or outside the State, the business of reinsuring business of a class to which the Insurance Acts apply unless—

- (a) in the case of a person who holds an authorisation to carry on business in one or more classes, the authorisation extends to those classes of business in which reinsurance is being accepted, or
- (b) in the case of a person who does not hold an authorisation, the person has given notice of not less than 30 days to the Minister, in such form and manner and including such information as the Minister may prescribe, of the person’s intention to carry on the business of reinsurance.

(1A) Subsection (1) shall not apply to a company registered outside the State which does not have a place of business in the State.

(1B) (a) The notice referred to in subsection (1)(b) shall include, but not necessarily be limited to, information in respect of the following:

- (i) ownership and share capital of the company, where applicable;
- (ii) directors and senior management;
- (iii) accountants, auditors and solicitors;
- (iv) the risks proposed to be covered and related policy and other arrangements.

(b) Any subsequent changes in the information included in a notice referred to in subsection (1)(b) shall be notified to the Minister not later than the end of the year in which those changes occur.

(1C) A person who was carrying on the business referred to in subsection (1) before the commencement of *section 5* of the *Insurance Act, 2000*, shall, not later than 60 days after such commencement, give notice to the Minister, in such form and manner and including such information as may be prescribed, of the person’s intention to continue to carry on that business, and subsection (1B) shall apply to a notice under this subsection as it applies to a notice referred to in subsection (1)(b) with any necessary modifications.

(1D) A person who contravenes subsection (1)(b) or who contravenes subsection (1C) and continues to carry on the business referred to in that subsection shall be guilty of an offence.

(1E) The Minister may direct a company in writing to cease carrying on the business referred to in subsection (1) either indefinitely or for such period as he may specify in the direction if—

- (a) the company contravenes subsection (1)(b) or (1C),
- (b) information that is, to the knowledge of the company, false or misleading is included in a notice of the company under subsection (1)(b) or (1C),
- (c) the Minister considers that, having regard to the risks insured or proposed to be insured by the company, the company is under capitalised,
- (d) the Minister considers that one or more of the directors or the senior managers of the company are not suitably qualified to direct and manage the business aforesaid of the company,
- (e) the Minister considers that the company has not a sufficient number of suitably qualified employees in the State to carry on effectively the business aforesaid, or
- (f) the Minister is in possession of information showing that the company has engaged in unlawful activities in or outside the State.

(1F) Where the Minister proposes to give a direction to a company under subsection (1E)—

- (a) he shall notify the company in writing of the proposal and shall include in the notification a statement of the reasons for the proposal,
- (b) the company may, within 28 days of the date of the notification, make submissions in writing to the Minister in relation to the proposal,
- (c) the Minister shall, before deciding to give a direction and determining its terms, take into consideration any representations made to him pursuant to paragraph (b).

(1G) Subsections (5) to (9) of section 18 shall apply to a direction under this section as they apply to a direction under that section with any necessary modifications.”.

Amendment of Act of 1989: insertion of section 22A (Application of Act to reinsurance).

6.—The Act of 1989 is hereby amended by the insertion of the following after section 22:

“Application of Act to reinsurance.

22A.—(1) Where the Minister considers it necessary to do so, in the public interest, in the interest of policy holders and in the interest of the orderly and proper regulation of the insurance industry, the Minister may by regulations provide for the application with such (if any) necessary modifications as are specified in

[2000.]

Insurance Act, 2000.

[No. 42.]

the regulations, to the business of reinsuring business of a class to which the Insurance Acts apply of such provisions of those Acts as are so specified. Pt.2 S.6

(2) The Minister may, by regulations, make provision in relation to authorisations and, without prejudice to the generality of the foregoing, the regulations may—

- (a) prohibit the carrying on by the person of the business of reinsuring business other than under and in accordance with an authorisation,
- (b) provide for the grant of, and the refusal to grant, authorisations by the Minister,
- (c) provide for the attachment of conditions by the Minister to authorisations,
- (d) provide for the suspension or revocation of an authorisation by the Minister where the holder contravenes a provision of the Insurance Acts or a condition attached to the authorisation,
- (e) specify criteria which the Minister shall take into account (whether with such other criteria as the Minister may consider appropriate or otherwise, as the regulations may specify) before deciding to grant or refuse to grant or to suspend or revoke an authorisation,
- (f) specify the form and manner of applications for the grant of authorisations,
- (g) provide for the payment of fees to the Minister in respect of applications for and the grant of authorisations,
- (h) require the provision to the Minister, in respect of such applications as aforesaid of such information as he or she may reasonably require and for the refusal by the Minister to grant authorisations where such information is not provided to the Minister,
- (i) provide for the making of returns to the Minister in respect of such matters and at such times as may be specified,
- (j) provide for the notification by the Minister of the person concerned of a proposal to refuse to grant or to suspend or revoke an authorisation and for the making of submissions to, and their consideration by, the Minister before deciding whether to give effect to the proposal, and

[No. 42.]

Insurance Act, 2000.

[2000.]

Pt.2 S.6

(k) provide for appeals to the High Court against refusals by the Minister to grant authorisations or against revocations or suspensions by the Minister of authorisations.

(3) Regulations under this section shall not apply to a person in so far as he or she carries on the business of reinsuring business by virtue of section 22(1)(a).

(4) Regulations under this section may contain such incidental, supplementary and consequential provisions as the Minister considers appropriate.

(5) A person who contravenes a regulation under this section or a condition attached to an authorisation shall be guilty of an offence.

(6) In this section, ‘authorisation’ means a document in writing in such form as the Minister may determine granted by the Minister to a person and authorising the carrying on by the person of the business of reinsuring business of a class specified in the authorisation.’.

Amendment of Act of 1989: insertion of Part IIIA (Provision of information).

7.—The Act of 1989 is hereby amended by the insertion of the following after Part III:

“PART IIIA

PROVISION OF INFORMATION

Interpretation.

43A.—(1) In this Part, unless the context otherwise requires—

‘Annex II’ means Annex II to the Directive, the text of which is set out for convenience of reference in the Third Schedule (as inserted by *section 12* of the *Insurance Act, 2000*);

‘client’ means—

(a) a person who proposes for insurance directly to an insurer or through an insurance intermediary or who requests an insurance intermediary to arrange insurance on his behalf, or

(b) a person who is a policyholder;

‘Directive’ means Council Directive No. 92/96/EEC of 10 November 1992¹;

‘surrender value’ means the monetary value of a policy of insurance where it is surrendered by the policyholder to an insurer.

¹OJ No. L 360/1, 9.12.92

(2) A word or expression that is used in this Part and is also used in the Directive has, unless the contrary intention appears, the same meaning in this Part that it has in the Directive. Pr.2 S.7

(3) In construing a provision of this Part, a court shall give to it a construction that will give effect to the Directive, and for this purpose a court shall have regard to the provisions of the Directive, including the preambles.

Provision of information pursuant to Directive (life assurance).

43B.—An insurer or an insurance intermediary shall, pursuant to the Directive, in relation to life assurance, provide to a client—

- (a) before the conclusion of a policy of insurance, the information specified in Part A of Annex II, and
- (b) during the term of a policy of insurance, the information specified in Part B of Annex II,

and the Minister may prescribe the form and manner in which such information is to be provided, including the form of a declaration to be signed by a client on receipt of the information and the manner and period in which the declaration is to be signed.

Language of information.

43C.—(1) The information specified in section 43B, and policies of insurance or copies thereof, shall, subject to section 108 of the Insurance Act, 1936, be provided in the English language.

(2) Where the law applicable to the policy of insurance is the law of another Member State of the European Communities, the client may request that the information specified in section 43B, and policies of insurance or copies thereof, be provided in the official language or languages of that Member State.

Further information to be provided (life assurance and non-life insurance).

43D.—(1) The Minister may prescribe such information as he considers appropriate (other than the information referred to in section 43B) to be provided by an insurer or insurance intermediary to a client in relation to proposals for and the marketing, sale, distribution, conclusion and issue of, policies of insurance and related matters—

- (a) before the conclusion of such policies, and
- (b) during the term of such policies,

which information shall be provided in such form and manner as may be prescribed by the Minister.

(2) Any regulations made under this section in relation to information about payments in respect of the sale of policies of insurance to be provided to clients of insurers and insurance intermediaries shall be such as to ensure that the requirements in the regulations regarding disclosure of the remuneration of sales employees of insurers shall, in so far as is possible, be equivalent to those regarding disclosure of the payments of commission by insurers to insurance intermediaries.

(3) Regulations made under this section may authorise the Minister to obtain from insurers and insurance intermediaries such information as he may reasonably require for the purpose of ensuring compliance with the regulations.

(4) Regulations made under this section may—

- (a) include such consequential, incidental, transitional or supplementary provisions as may be considered by the Minister to be necessary or appropriate, and
- (b) apply, either generally or by reference, to a specified class or classes of insurance or persons or to any other matter as may be considered by the Minister to be appropriate.

Regulations (life assurance).

43E.—(1) Without prejudice to the generality of subsection (1) of section 43D, regulations made under that subsection may provide in relation to life assurance:

- (a) that any or all of the following information shall be provided by an insurer or insurance intermediary to a client before the conclusion of the policy of insurance concerned:
 - (i) the type of policy;
 - (ii) the purpose and intention of the policy;
 - (iii) whether the policy replaces, in whole or in part, an existing policy with the insurer concerned or any other insurer which has been or is to be cancelled or in respect of which any benefit or cover has been or is to be reduced;
 - (iv) where an existing policy has been or is to be cancelled or any benefit or cover has been or is to be reduced, the financial consequences, if any, for the client;
 - (v) a written statement that the premium includes the cost of the

policy and any other amount payable, if any; Pr.2 S.7

- (vi) the circumstances in which a premium may be reviewed or increased and the consequences of any failure by the client to review or increase the premium;
 - (vii) an illustrative table which sets out the projected benefits and the surrender or maturity value of the policy and the charges, expenses and any other amount payable, if any;
 - (viii) the consequences for the client of surrender of a policy;
 - (ix) the consequences of non-payment of premiums;
 - (x) the consequences of failing to disclose material facts or providing incorrect information when completing a proposal for a policy;
 - (xi) the circumstances in which a policy may be cancelled or amended by an insurer or insurance intermediary;
- (b) the form of a declaration to be signed by a client on receipt of the information prescribed under section 43D and the manner and period in which the declaration is to be signed;
- (c) the form and manner of illustrations of the amounts of any projected benefits, expenses, charges or other payments payable and of illustrations of the means by which the amounts aforesaid are calculated;
- (d) that in the case of a policy of insurance which acquires a surrender or projected maturity value the insurer shall, at such time or times and in such form and manner as the Minister may prescribe, provide the client with—
- (i) a written statement of the current premium payable and the current surrender or maturity value, and
 - (ii) such further information as the insurer considers appropriate.
- (2) (a) For the purposes of subsection (1)(c), the Minister, as he considers appropriate, may provide in the regulations concerned for all or any of the following:

Pr.2 S.7

- (i) that the illustrations referred to in that provision shall be prepared in accordance with—
 - (I) the advice of an actuary, and
 - (II) any guidance notes issued by the Society of Actuaries in Ireland for that purpose;
- (ii) the form and manner and content of a declaration to be furnished by the insurer that all information requested by the actuary pursuant to his or her functions under the regulations concerned has been provided to the actuary and is accurate;
- (iii) the form and manner and content of a certificate to be furnished by the actuary that the advice given by the actuary and any guidance notes issued by the Society of Actuaries in Ireland have been complied with by the insurer in relation to the illustrations concerned.

(b) In this subsection, ‘actuary’ means—

- (i) where an insurance undertaking is required to have an actuary, the person appointed to act as actuary to the insurance undertaking, or
- (ii) in any other case, an actuary, being a Fellow Member of the Society of Actuaries in Ireland, nominated by the insurance undertaking,

to carry out any function relating to the business of the insurance undertaking which is required by the Insurance Acts to be undertaken by an actuary.

Regulations (non-life insurance).

43F.—(1) Without prejudice to the generality of subsection (1) of section 43D, regulations made under that subsection may provide in relation to non-life insurance:

(a) that any or all of the following information shall be provided by an insurer or insurance intermediary to a client before or after the conclusion of the policy of insurance concerned:

- (i) a written statement which shall specify—
 - (I) the amount of the premium,

- (II) in the case of an insurance intermediary, the amount of the commission payment and any other amount payable to the insurance intermediary, if any, and the percentage of the premium represented by such commission payment or other amount, Pt.2 S.7
- (III) the amount of any discount and the percentage of the premium represented by such discount, and
- (IV) the cost to the insurer of underwriting that part of the risk to be insured which relates to previous claims, if any, made by the client concerned;
- (ii) where applicable, a written statement that any commission payment payable is subject to a statutory notice issued by the Minister under section 37;
- (iii) the terms and conditions of the policy including restrictions or limitations;
- (iv) the consequences of failing to disclose material facts or providing incorrect information when completing a proposal for a policy;
- (v) particulars of any rating factor applicable and of any additional amount payable by reason of it;
- (vi) details of the dispute resolution procedures, where applicable;
- (vii) details, including the amount, of that part of an insurance claim required to be paid by the client, where applicable;
- (viii) in the case of an instalment scheme for the payment of a premium, the amount of interest which is payable on the premium;
- (ix) an explanation of the subrogation provisions of the policy, where applicable;
- (x) the amount (expressed as a percentage of the premium) of any tax or levy payable by the client in respect of the policy concerned;

[No. 42.]

Insurance Act, 2000.

[2000.]

Pt.2 S.7

(b) the form of a declaration to be signed by a client on receipt of the information prescribed under section 43D and the manner and period in which the declaration is to be signed;

(c) that during the term of a policy of insurance, the insurer or insurance intermediary concerned shall provide to the client renewal notices which shall—

(i) be furnished subject to such prescribed time limits, and

(ii) include such information prescribed under section 43D,

as the Minister considers appropriate.

(2) In this section, ‘renewal notice’ means a notice in writing issued by an insurer or an insurance intermediary which requests a client to renew the policy concerned in accordance with the terms and conditions of the policy, of any endorsements to the policy and of the notice.

Obligations
(information to
certain trustees).

43FF.—The Minister may by regulations provide for the giving by insurers to trustees of occupational pension schemes of such information as they may reasonably request for the purpose of their compliance with the provisions of the Pensions Act, 1990.

Offences.

43G.—A person who—

(a) contravenes a provision of regulations made under this Part, or

(b) makes a false representation in relation to the matters specified in those regulations, knowing or having reason to believe that the representation is false,

shall be guilty of an offence.”.

Repeal of Part IV
of Act of 1989
(Regulation of
insurance
intermediaries).

8.—Part IV of the Act of 1989 is hereby repealed.

Amendment of
section 59 of Act of
1989 (Appointment
of authorised
officers).

9.—Section 59 of the Act of 1989 is hereby amended by the substitution of the following for that section:

“59.—(1) The Minister, or any other person appointed by the Minister for that purpose, may authorise in writing such and so many persons to be authorised officers for the purposes of the Insurance Acts and may revoke such authorisations.

(2) Every person who is appointed to be an authorised officer pursuant to this section shall be furnished with a certificate of appointment and shall, if so required, when exercising any power conferred on him by this Act, produce such certificate or a copy of it duly authenticated by the Minister or such other person appointed by the Minister for that purpose and a form of personal identification.”.

[2000.]

Insurance Act, 2000.

[No. 42.]

10.—Section 60 of the Act of 1989 is hereby amended by the substitution of the following for that section:

Pr.2

Amendment of section 60 of Act of 1989 (Powers of authorised officers).

“60.—(1) The powers conferred by this section may be exercised in respect of—

- (a) an insurer or insurance intermediary,
 - (b) an associated undertaking or a related undertaking of an insurer or insurance intermediary, or
 - (c) any other person whom the Minister has reason to believe provided or is providing insurance or purported or is purporting to act as an insurer or insurance intermediary.
- (2) An authorised officer may do all or any of the following:
- (a) subject to subsection (3), at all reasonable times enter any premises, at which there are reasonable grounds for believing that any books, records or other documents in relation to the issue of any policy, bond, certificate or other instrument of insurance, or in relation to the acceptance of any premium in respect of a policy, bond, certificate or other instrument of insurance are kept, and search and inspect the premises and such books, records or other documents on the premises;
 - (b) secure for later inspection any premises or any part of a premises in which books, records or other documents are kept or there are reasonable grounds for believing that such books, records or other documents are kept;
 - (c) require any person to whom this section applies or any person employed by such person to produce to the authorised officer such books, records or other documents and in the case of information in a non-legible form to reproduce it in a legible form or to give to the officer such information or explanation as the officer may reasonably require in relation to any entries in such books, records or other documents;
 - (d) inspect and take copies of or extracts from, or remove for a reasonable period for further examination, any books, records, data (within the meaning of the Data Protection Act, 1988) or other documents in whatever form kept (including, in the case of information in a non-legible form, a copy of or extract from such information in a permanent legible form) which the officer finds or which is produced to the officer in the course of inspection;
 - (e) require any person to whom this section applies or any person employed by such person to give to the authorised officer such information as the officer may reasonably require in relation to any entries in such books, records or other documents;
 - (f) require any person to whom this section applies to give to the authorised officer any information which the authorised officer may require in regard to the business or activity concerned or in regard to the persons carrying on such business or activity or employed in connection therewith;

- (g) require any person by whom or on whose behalf data equipment is or has been used or any person having charge of, or otherwise concerned with the operation of, the data equipment or any associated apparatus or material, to afford the authorised officer reasonable assistance in relation thereto;
- (h) summon, at any reasonable time, any other person employed in connection with the business or activity concerned to give to the authorised officer any information which the officer may reasonably require in regard to such business or activity and to produce to the authorised officer any books, records or other documents which are in that person's power or control;
- (i) require any person employed in the premises concerned to prepare a report on specified aspects of the business or activities of a person to whom this section applies or to explain entries in any books, records, documents or other materials furnished.
- (3) An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling unless he has obtained a warrant issued by a judge of the District Court under subsection (9) authorising such entry.
- (4) A person who has in his power, possession or procurement any books, records or other documents referred to in subsection (2) shall—
- (a) produce them at the request of an authorised officer and permit the authorised officer to inspect and take copies of, or extracts from, them,
- (b) at the request of an authorised officer, give any information which may be reasonably required with regard to them, and
- (c) give such other assistance and information to an authorised officer as is reasonable in the circumstances.
- (5) Where any person from whom production of a book, record or other document is required claims a lien thereon the production of it shall be without prejudice to the lien.
- (6) Nothing in this section shall compel the disclosure by any person of any information which the person would, in the opinion of the Court, be entitled to refuse to produce on the grounds of legal professional privilege or authorise the taking possession of any document containing such information which is in his possession.
- (7) The duty to produce or provide any information, document, material or explanation extends to an examiner, liquidator, receiver, official assignee or any person who is or has been an officer or employee or agent of a person to whom this section applies, or who appears to the Minister or the authorised officer to have the information, document, material or explanation in his possession or under his control.

[2000.]

Insurance Act, 2000.

[No. 42.]

(8) An authorised officer, where he considers it necessary, Pt.2 S.10
may be accompanied by a member of the Garda Síochána when performing any powers conferred on an authorised officer by this Act.

(9) If a judge of the District Court is satisfied on the sworn information of an authorised officer that there are reasonable grounds for suspecting that there is information required by an authorised officer under this section held on any premises or any part of any premises, the judge may issue a warrant authorising an authorised officer, accompanied by other authorised officers or by a member of the Garda Síochána, at any time or times within one month from the date of issue of the warrant, on production of the warrant if so requested, to enter the premises, if need be by reasonable force, and exercise all or any of the powers conferred on an authorised officer under this section.

(10) A person who—

- (a) obstructs or impedes an authorised officer in the exercise of a power under this Act,
- (b) gives to an authorised officer information which the person knows is false or misleading, or
- (c) without reasonable excuse, fails to comply with a request or requirement made by an authorised officer under this Act,

shall be guilty of an offence.

(11) (a) If any officer, employee, shareholder or agent of a person to whom this section applies refuses to produce to an authorised officer when requested to do so any book or document which it is his duty under this section to produce, or refuses to co-operate with an authorised officer when required to do so, or refuses to answer any question put to him by an authorised officer with respect to the affairs of the insurer or insurance intermediary, the authorised officer may certify the refusal under his hand to the Court.

(b) Where a refusal is certified to the Court, the Court may enquire into the case and, after hearing any witnesses who may be produced against or on behalf of the officer, employee, shareholder or agent of the person to whom this section applies and any statement which may be offered in defence, make any order or direction as it thinks fit.

(c) An order or direction made under paragraph (b) may include a direction to the person concerned to attend or re-attend before the authorised officer or produce particular books or documents or answer a particular question put to him by the authorised officer, or a direction that the person concerned need not produce a particular book or document or answer a particular question put to him by the authorised officer.

(12) In this section—

‘agent’, in relation to a person to whom this section applies, or any associated or related undertaking, includes past as well as present agents, and includes its bankers, accountants, solicitors, auditors and its financial and other advisers, whether or not those persons are officers or persons to whom this section applies;

‘associated undertaking’ and ‘related undertaking’ have the same meaning as in the Investment Intermediaries Act, 1995;

‘person to whom this section applies’ means a person referred to in subsection (1)(a), (b) or (c);

‘specified’ means specified under this section.”.

Amendment of Second Schedule to Act of 1989 (Increase of penalties).

11.—The Second Schedule to the Act of 1989 is hereby amended by the substitution for that Schedule of the Schedule set out in *Schedule 1* to this Act.

Amendment of Act of 1989: Third Schedule (Information for policy holders).

12.—The Act of 1989 is hereby amended by the addition after the Second Schedule of the Schedule set out in *Schedule 2* to this Act.

CHAPTER 2

Amendment of Insurance Act, 1936

Repeal of section 110 of Insurance Act, 1936 (Time limit for prosecution of offences).

13.—Section 110 of the Insurance Act, 1936, is hereby repealed.

CHAPTER 3

Miscellaneous Revocations

Revocation and transitional provisions: Life Regulations of 1994.

14.—(1) Subject to *subsection (2)*, sub-articles (1) and (2) of Article 45 of, and Annex III to, the Life Regulations of 1994 are hereby revoked.

(2) Notwithstanding *subsection (1)*—

(a) where a proposal is made by a client to an insurance undertaking (within the meaning of the Life Regulations of 1994) and the policy of insurance has not issued before the commencement of Part IIIA of the Act of 1989, sub-articles (1) and (2) of Article 45 of, and paragraphs 1 to 16 of Annex III to, the Life Regulations of 1994, shall continue to apply to the proposal, and

(b) where a policy of insurance has issued before the commencement of the said Part IIIA, the said sub-articles (1) and (2) of Article 45 and paragraphs 17 to 22 of the said Annex III shall continue to apply to the policy.

Revocation: authorised officers.

15.—(1) The European Communities (Life Assurance) Regulations, 1984 (S.I. No. 57 of 1984) are hereby amended by the revocation of Articles 37 and 38 (both inserted by the European Communities (Life Assurance) (Amendment) Regulations, 1985 (S.I. No. 296 of 1985)).

[2000.]

Insurance Act, 2000.

[No. 42.]

(2) The European Communities (Non-Life Insurance) Regulations, 1976 (S.I. No. 115 of 1976) are hereby amended by the revocation of Articles 35 and 36 (both inserted by the European Communities (Non-Life Insurance) (Amendment) Regulations, 1985 (S.I. No. 297 of 1985)).

Pr.2 S.15

PART 3

AMENDMENTS OF ACT OF 1995

16.—(1) Section 2 of the Act of 1995 is hereby amended in subsection (1)—

Amendment of section 2 of Act of 1995 (Interpretation).

(a) by the insertion of the following after the definition of “indirect subsidiary”:

“‘insurance agent’ means an insurance intermediary acting for a limited number of insurance undertakings as specified in section 25C of this Act;

‘insurance broker’ means an insurance intermediary acting with the freedom of choice described in section 25B of this Act;

‘insurance intermediary’ means any person who, on a professional basis—

(a) assists or offers to assist third parties in the placing or taking-up of insurance, or

(b) gives or offers to give advice regarding insurance policies to third parties,

but does not include an insurance undertaking or an employee of an insurance undertaking when the employee is acting for that insurance undertaking;

‘insurance undertaking’ has the same meaning as in the Insurance Act, 1989;”,

(b) in the definition of “investment instruments”—

(i) by the insertion of the following after paragraph (l):

“(m) insurance policies;”,

and

(ii) in paragraph (III) by the deletion of “, or an insurance policy”,

(c) by the insertion of the following after the definition of “investment limited partnership”:

“‘investor’ includes a client of an investment business firm or of an insurance intermediary;”,

(d) by the insertion of the following after the definition of “investment limited partnership”:

“‘life assurance’ has the same meaning as in the Insurance Act, 1989;

‘life assurance intermediary’ means a person who acts as an insurance intermediary in respect of life assurance;”,

(e) in the definition of “officer” by the insertion after “by whatever name called” of “and includes a shadow director within the meaning of the Companies Act, 1990,”,

(f) by the insertion of the following after the definition of “Official Assignee”:

“‘non-life insurance’ has the same meaning as in the Insurance Act, 1989;

‘non-life insurance intermediary’ means a person who acts as an insurance intermediary in respect of non-life insurance;”,

(g) by the substitution of the following for the definition of “product producer”:

“‘product producer’ means a firm, institution, collective undertaking, investment company or insurance undertaking of the kind referred to in section 26(1)(i) to (vii) of this Act;”,

(h) by the insertion of the following after the definition of “regulated market”:

“‘the Regulations of 1989’ mean the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations, 1989 (S.I. No. 78 of 1989), and includes any subsequent amendments thereto;”,

and

(i) by the insertion of the following after the definition of “supervisory authority”:

“‘tied insurance agent’ means an insurance agent who enters into—

(a) an agreement or arrangement with an insurance undertaking whereby the agent undertakes to refer all proposals of insurance to that insurance undertaking, or

(b) an agreement or arrangement with an insurance undertaking which restricts in any way the agent’s freedom to refer proposals of insurance to any insurance undertaking other than the insurance undertaking with whom the agent entered into that agreement or arrangement;”.

(2) Section 2 of the Act of 1995 is hereby amended in subsection (6) by the substitution of the following for paragraph (h):

“(h) credit institutions which provide investment business services or investment advice.”.

Amendment of Act of 1995: insertion of section 13A (Existing insurance intermediaries).

17.—The Act of 1995 is hereby amended by the insertion of the following after section 13:

“Existing insurance intermediaries.

13A.—(1) Notwithstanding section 9 of this Act, a person who is an insurance intermediary on the day immediately prior to the coming into operation of *section 16(1)(b)* of the *Insurance Act*,

[2000.]

Insurance Act, 2000.

[No. 42.]

2000, and who is not deemed to be authorised under Part IV or VII of this Act may stand authorised, on the coming into operation of *section 16(1)(b)* of the *Insurance Act, 2000*, as an authorised investment business firm until the supervisory authority has granted or refused authorisation to it, provided that no later than 3 months after the coming into operation of *section 16(1)(b)* of the *Insurance Act, 2000*, that person applies to the supervisory authority under section 10 of this Act for authorisation. Pr.3 S.17

(2) For the purposes of this section, references in section 10 of this Act to a proposed investment business firm shall be construed as references to a person who stands authorised as an investment business firm under subsection (1) of this section.

(3) Pending a decision by the supervisory authority to authorise a person who is an insurance intermediary and who stands authorised as an investment business firm under subsection (1) of this section, or during the 3 months referred to in that subsection, or during both such times, the supervisory authority may do all or any of the following:

(a) impose such conditions or requirements or both as it thinks fit relating to the proper and orderly regulation and supervision of the investment business firm or in relation to the protection of clients, including conditions and requirements, or both, which relate to matters in an associated undertaking, a related undertaking, or in both;

(b) issue directions under this Act.

(4) A person to whom subsection (1) of this section refers may appeal to the Court against the conditions or requirements imposed under subsection (3) of this section.

(5) On hearing an application under subsection (4) of this section, the Court may confirm, vary or rescind any condition or requirement imposed under subsection (3) of this section.”.

18.—Section 16 of the Act of 1995 is hereby amended in subsection (1) by the substitution of the following paragraph for paragraph (k):

Amendment of section 16 of Act of 1995 (Revocation of authorisation).

“(k) a director, manager or qualifying shareholder of a person who is an authorised investment business firm or is deemed by virtue of section 26 or 63 of this Act to be such a firm no longer satisfies the supervisory authority as to the matters specified in paragraphs (d) and (e) of section 10(5) of this Act.”.

19.—Section 17 of the Act of 1995 is hereby amended by the substitution of the following subsection for subsection (2):

Amendment of section 17 of Act of 1995 (Register of investment business firms).

Pt.3 S.19

- “(2) The supervisory authority shall arrange for—
 - (a) the register or registers maintained by it pursuant to subsection (1), or a copy or copies thereof, to be made available at the same place at all reasonable times for inspection by members of the public on payment of such fee as it may specify, and
 - (b) the publication, in electronic form or such other form as it considers appropriate, of the register or registers aforesaid.”.

Amendment of section 21 of Act of 1995 (Directions by supervisory authority).

20.—Section 21 of the Act of 1995 is hereby amended by the insertion in subsection (2) after paragraph (b) of the following:

“(bb) has failed to provide to the supervisory authority within such reasonable period as may be specified by it such information as it may reasonably request for the purpose of its functions under section 20(1) of this Act, or”.

Amendment of section 25 of Act of 1995 (Definition of “investment product intermediary”).

21.—Section 25 of the Act of 1995 is hereby amended by the substitution of the following for that section:

“25.—In this Act, ‘investment product intermediary’ means an investment business firm or a solicitor holding a practising certificate (within the meaning of the Solicitors Acts, 1954 to 1994) who does all or any of the following:

- (a) acts as a deposit agent or as a deposit broker;
- (b) provides a service for the reception and transmission of orders to a product producer in—
 - (i) units or shares in undertakings for collective investments in transferable securities within the meaning of the Regulations of 1989,
 - (ii) units in a unit trust,
 - (iii) other collective investment scheme instruments,
 - (iv) shares in a company which are listed on a stock exchange,
 - (v) bonds listed on a stock exchange or prize bonds,
 - (vi) tracker bonds, or
 - (vii) insurance policies.”.

Amendment of Part IV of Act of 1995 (Investment product intermediaries).

22.—Part IV of the Act of 1995 is hereby amended by the insertion of the following after section 25:

“Acting as insurance intermediary.

25A.—(1) An insurance intermediary shall not place or attempt to place insurance, other than reinsurance, otherwise than with an insurance undertaking.

(2) The Investor Compensation Act, 1998, shall not apply to insurance intermediaries if and in so far as their business relates to reinsurance or advice regarding reinsurance policies.

[2000.]

Insurance Act, 2000.

[No. 42.]

Acting as insurance broker.

25B.—A person shall not act as, or hold himself out to be, an insurance broker in respect of life assurance or non-life insurance unless he is in a position to place insurance of that form with at least 5 insurance undertakings. Pt.3 S.22

Acting as insurance agent.

25C.—A person shall not act as, or hold himself out to be, an insurance agent in respect of life assurance or non-life insurance unless he is in a position to place insurance of that form with no more than 4 insurance undertakings.

Acting as tied insurance agent.

25D.—(1) A tied insurance agent shall not act in relation to contracts of insurance which—

(a) are offered or issued by an insurance undertaking other than the undertaking with whom the tied insurance agent has entered into a tied agency agreement or arrangement, and

(b) are for the same form of insurance (whether life assurance or non-life insurance) as the contracts of insurance offered or issued by the insurance undertaking with whom the tied insurance agent has entered into a tied agency agreement or arrangement.

(2) In this section, ‘tied agency agreement or arrangement’ means an agreement or arrangement of the type described in the definition, in section 2(1) of this Act, of ‘tied insurance agent’.

Provisions regarding scope of agency.

25E.—(1) An insurance agent shall be deemed to be acting as the agent of the insurance undertaking to whom a proposal of insurance is being made when, for the purpose of the formation of the insurance contract, the agent completes or helps the proposer of the contract to complete, a proposal for insurance.

(2) Only in the circumstances described in subsection (1) of this section shall the undertaking be responsible for any errors or omissions in the completed proposal.

(3) An insurance undertaking shall be responsible for any act or omission of its tied insurance agent in respect of any matter relating to a contract of insurance offered or issued by that undertaking of a form (whether life assurance or non-life insurance) to which the tied agency agreement or arrangement relates, as if the tied insurance agent was an employee of that undertaking.

(4) Nothing in this section shall render an insurance undertaking, its insurance agent or its tied insurance agent responsible for any false statements supplied to, or any information withheld from, the agent by the proposer of an insurance policy.

Pr.3 S.22

Acceptance by
insurance
intermediary of
insurance proposals.

25F.—(1) An insurance intermediary shall not accept money from a client unless the insurance intermediary is authorised by the supervisory authority or otherwise permitted under section 26 of this Act to do so and—

(a) in respect of a proposal, unless it is accompanied by the completed proposal or unless the proposal has been accepted by the insurance undertaking, or

(b) in respect of a renewal of a policy of insurance, unless the renewal has been invited by the insurance undertaking.

(2) The supervisory authority may prescribe any alteration or addition to the circumstances in which an insurance intermediary may accept money from a client under subsection (1) of this section.

(3) Where an insurance intermediary accepts from a client—

(a) a completed insurance proposal, accompanied by a payment of money, with a view to effecting with an undertaking a policy of insurance, or

(b) money in respect of a proposal accepted by an undertaking or in respect of renewal of a policy of insurance which has been invited by the undertaking,

the insurance intermediary shall serve on the client a document which complies with section 30 of this Act.

(4) If subsection (3)(a) of this section applies, the acceptance by the insurance intermediary of a completed insurance proposal does not itself constitute the effecting of a policy of insurance.

Treatment of
premiums paid to
insurance
intermediaries.

25G.—(1) Where a premium is paid to an insurance intermediary in respect of a renewal of a policy which has been invited by an insurance undertaking, or in respect of a proposal accepted by an undertaking, the premium shall be treated as having been paid to the insurance undertaking when it is paid to the insurance intermediary.

(2) Nothing in this section shall render an insurance undertaking liable for a premium paid to an intermediary in respect of a proposal accepted by an insurance undertaking or a renewal of a policy which has been invited by the insurance undertaking, where the insurance undertaking has given reasonable notice in writing to the person whose proposal has been accepted or whose policy is being renewed, that

[2000.]

Insurance Act, 2000.

[No. 42.]

the intermediary has no authority to collect such premiums on behalf of the insurance undertaking.”

Pr.3 S.22

23.—Section 26 of the Act of 1995 is hereby amended—

Amendment of section 26 of Act of 1995 (Definition of restricted activity investment product intermediaries).

(a) in subsection (1)—

(i) by the substitution of the following for everything before subparagraph (i):

“In this Act, ‘restricted activity investment product intermediary’ means a person whose only investment business service is engaging in, or providing investment advice in relation to, any or all of the following services:

(a) receiving and transmitting orders in units or shares in undertakings for collective investment in transferable securities within the meaning of the Regulations of 1989, units in a unit trust, other collective investment scheme instruments, or shares in a company which are listed on a stock exchange or bonds so listed or prize bonds, tracker bonds or insurance policies;

(b) acting as a deposit agent or deposit broker,

and who, in the course of engaging in any of those services, transmits orders only to all or any of the following product producers:”

(ii) in subparagraph (vi) by the substitution for “scheme,” of “scheme;”

(iii) by the insertion of the following after subparagraph (vi):

“(vii) insurance undertakings,”

(iv) in clause (I)—

(I) by the substitution for “subparagraphs (i) to (vi)” of “subparagraphs (i) to (vii)”, and

(II) by the deletion after “of orders,” of “or”,

(v) in clause (II) by the substitution for “credit institution.” of “credit institution,” and

(vi) by the insertion of the following after clause (II):

“(III) taking cash from a client in circumstances to which section 25G applies when acting as an insurance intermediary, or

(IV) taking cash from a client in circumstances to which section 25E applies when acting as a tied insurance agent.”

(b) by the insertion of the following after subsection (2):

“(2A) A person who is an insurance intermediary on the day immediately prior to the coming into operation of section 16(1)(b) of the *Insurance Act, 2000*, shall, while that person remains a restricted activity investment product intermediary and notwithstanding subsection (2) of this section and section 10 of this Act, be deemed to be an authorised investment business firm for the purposes of this Act provided that—

- (a) the restricted activity investment product intermediary has not had its authorisation revoked under section 16(2) of this Act and not reinstated,
- (b) no officer of the restricted activity investment product intermediary has been an officer of an investment business firm which has had its authorisation revoked under section 16(2) of this Act and not re-instated,
- (c) the restricted activity investment product intermediary furnishes to the supervisory authority not later than 3 months from the commencement of this section, in such form as the authority may specify, such information as it may reasonably require, for the purposes of its functions under this section, in relation to such matters as the authority may specify, and
- (d) there has not been a failure by—
 - (i) the restricted activity investment product intermediary or a related undertaking of the intermediary, or
 - (ii) an officer of the intermediary or the undertaking,

to comply with a condition, requirement or direction imposed by the supervisory authority under this Act that is, in the opinion of the supervisory authority, prejudicial to the proper and orderly regulation and supervision of investment business firms or the protection of investors or both.”,

(c) by the substitution of the following for subsection (3):

“(3) Nothing in this section shall prevent a restricted activity investment product intermediary from complying with the requirements of regulations made under section 43D to implement section 43E(1)(a)(iii) and (iv) of the *Insurance Act, 1989*.”,

and

(d) by the insertion of the following subsection:

“(4) Subsections (2) and (2A) of this section shall apply without prejudice to any of the powers of a supervisory authority in relation to this Act.”.

24.—Section 27 of the Act of 1995 is hereby amended—

Pr.3

Amendment of section 27 of Act of 1995 (Requirements for investment product intermediaries).

- (a) by the deletion of paragraph (a),
- (b) in paragraph (c) by the insertion after “provisions of this Act” of “and, insofar as he is acting as an insurance intermediary, with the provisions of the Insurance Acts,” and
- (c) by the designation of that section as subsection (1) and the addition of the following:

“(2) Notwithstanding subsection (1) of this section, where it considers that the clients of the intermediaries are otherwise adequately protected, the supervisory authority may, from time to time, exempt a class or classes of intermediary from the requirement to hold professional indemnity insurance.”.

25.—Section 28 of the Act of 1995 is hereby amended—

Amendment of section 28 of Act of 1995 (Obligations on product producers).

- (a) by the substitution of the following for subsection (1):

“(1) A product producer may not appoint an investment product intermediary to act on its behalf in the reception or transmission of orders in units or shares in undertakings for collective investments in transferable securities within the meaning of the Regulations of 1989 and any subsequent amendments thereto, units in a unit trust, other collective scheme instruments, shares in a company or bonds which are listed on a stock exchange, prize bonds, tracker bonds or insurance policies, or in acting as a deposit agent or as a deposit broker or any or all of these, and may not pay any commission, fee or other reward to an investment product intermediary, or accept any orders transmitted by, or any insurance placed by, an investment product intermediary on behalf of a client, unless to the best of the product producer’s knowledge and belief, having caused reasonable enquiry to be made, the investment product intermediary—

- (a) is a certified person, or
- (b) is of good character, and—
 - (i) otherwise complies with this Act, and
 - (ii) where the product producer is an insurance undertaking, complies with the Insurance Acts.”,

- (b) by the substitution of the following for subsection (2):

“(2) A product producer may, for the purposes of subsection (1) of this section, assume that an investment product intermediary authorised under section 10 or 13 of this Act as an investment business firm or authorised by a competent authority in another Member State to perform functions corresponding to those of an investment product intermediary is in compliance with this Act and the Insurance Acts.”,

and

- (c) in subsection (5)—

Pt.3 S.25

(i) by the insertion after “belonging to the client” of “or pay any commission, fee or other reward to the investment business firm”, and

(ii) by the insertion of the following before paragraph (a):

“(aa) which, to the best of the product producer’s knowledge and belief, complies with this Act and, if the investment business firm is an insurance intermediary, with the Insurance Acts.”.

Disclosure obligations of restricted activity investment product intermediaries.

26.—The Act of 1995 is hereby amended by the substitution of the following section for section 29:

“29.—The supervisory authority may, if it considers it appropriate to do so, require investment product intermediaries or any class or classes of such intermediaries (including credit institutions when acting as such intermediaries) to disclose in communications (including advertisements) made by them in any form or manner (including electronic communications) and on first entering into an investment business service relationship with a client one or more of the following:

- (a) that it is not within their terms of authorisation to accept cash or other funds or securities on behalf of their clients or to act on a discretionary basis in the management of client funds,
- (b) their categories of authorisation under this Act and the types of investment business services to which they relate,
- (c) the names of the product producers from whom they hold appointments in writing,
- (d) any restrictions imposed by product producers on the types of business that those intermediaries may accept, and
- (e) any other information that, in the opinion of the supervisory authority, will contribute to the proper and orderly regulation of investment product intermediaries and the protection of their clients.”.

Amendment of section 30 of Act of 1995 (Issue of receipts).

27.—Section 30 of the Act of 1995 is hereby amended by the substitution of the following for that section:

“30.—(1) Without prejudice to any codes of conduct which may be issued or approved of by a supervisory authority under section 37 of this Act, an investment product intermediary shall issue a receipt for each non-negotiable or negotiable instrument or other payment received for the purposes of transmitting an order or a deposit to a product producer and the receipt shall state succinctly the terms and conditions upon which a transaction was entered into.

(2) The receipt issued under subsection (1) of this section shall state that it is issued pursuant to this section and shall, subject to such alterations or additions as may be prescribed under subsection (3) of this section, specify the following:

[2000.]

Insurance Act, 2000.

[No. 42.]

- (a) the name and address of the investment product intermediary; Pr.3 S.27
- (b) the name and address of the person furnishing the instrument or payment, or an alternative form of identification approved by the supervisory authority for the purpose;
- (c) the value of the instrument or payment received from the person furnishing it and the date on which it was received;
- (d) the purpose of the payment;
- (e) the name of the product producer in whose favour the payment is made;
- (f) in the case of an insurance intermediary, that the acceptance by the insurance intermediary of a completed insurance proposal does not itself constitute the effecting of a policy of insurance.

(3) The supervisory authority may prescribe any alterations or additions to the matters to be specified in documents to be issued by investment product intermediaries under this section.

(4) An investment product intermediary shall retain a record of a receipt issued under subsection (1) of this section until the expiry of 6 years after the receipt was issued.

(5) An investment product intermediary which fails to issue a receipt in accordance with this section shall be guilty of an offence.

(6) For the purposes of this section, a document purporting to be a document to which subsection (2) of this section applies shall, without further proof, be evidence of the matters specified in it unless the contrary is shown.

(7) In this section, 'investment product intermediary' includes a credit institution acting as such an intermediary."

28.—Section 31 of the Act of 1995 is hereby amended—

Amendment of section 31 of Act of 1995 (Register of investment product intermediaries).

- (a) in subsection (2), by the insertion, after "normal working hours" of "and the product producer concerned shall arrange for its publication in electronic form or such other form as it considers appropriate",
- (b) in subsection (4), by the insertion, after "product producers", of "and such a register may be in electronic form or such other form as he or she considers appropriate", and

PT.3 S.28

(c) in subsection (6) (inserted by section 61 of the Investor Compensation Act, 1998)—

(i) in paragraph (a), by the substitution for “newspapers circulating in the State” of “national newspapers”, and

(ii) in paragraph (b), by the substitution for “newspapers circulating in the State” of “national newspapers within 28 days of having informed the investment product intermediary of the discontinuance”.

Amendment of Act of 1995: insertion of section 31A (Scope of Part IV).

29.—The Act of 1995 is hereby amended by the insertion of the following after section 31:

“Scope of Part IV.

31A.—(1) This Part (other than section 30) shall not apply to travel agents and tour operators licensed under the Transport (Tour Operators and Travel Agents) Act, 1982, insofar as they are engaged in the placing of travel insurance or touring assistance contracts as part of, or in conjunction with, an overseas travel contract.

(2) In this section, ‘travel agent’, ‘tour operator’ and ‘overseas travel contract’ have the meanings assigned to them respectively by section 2(1) of the Transport (Tour Operators and Travel Agents) Act, 1982.”.

Amendment of section 37 of Act of 1995 (Code of conduct).

30.—Section 37 of the Act of 1995 is hereby amended by the insertion of the following subsection after subsection (2):

“(2A) Provisions relating to the disclosure of commissions that are included, pursuant to paragraph (e) of subsection (1) of this section, in a code of conduct drawn up under that subsection shall not apply to investment business firms insofar as they are acting as insurance intermediaries.”.

Repeal of section 51(5)(e) of Act of 1995 (Bonding).

31.—Section 51(5)(e) of the Act of 1995 is hereby repealed.

Amendment of section 65 of Act of 1995 (Powers of authorised officers).

32.—Section 65 of the Act of 1995 is hereby amended in subsection (2)(g) by the insertion after “by” of “whom”.

Amendment of section 74 of Act of 1995 (Power to make determinations for breaches of conditions or requirements).

33.—Section 74 of the Act of 1995 is hereby amended in subsection (2) by the insertion after “23(3)” of “, 29”.

PART 4

AMENDMENT OF CENTRAL BANK ACT, 1989

Amendment of section 16 of Central Bank Act, 1989 (Disclosure of information).

34.—Section 16 of the Central Bank Act, 1989, is hereby amended in subsection (2)—

(a) in paragraph (m) (inserted by section 49 of the Act of 1995) by the deletion of “in respect of certified persons”, and

(b) by the insertion before paragraph (v) of the following paragraph:

[2000.]

Insurance Act, 2000.

[No. 42.]

“(av) made to a product producer (within the meaning of the Investment Intermediaries Act, 1995) in respect of the investment business services or investment advice provided by a restricted activity investment product intermediary (within the meaning aforesaid) who holds an appointment in writing from the producer pursuant to section 27 of that Act.”.

Pr.4 S.34

SCHEDULE 1

Section 11.

“SECOND SCHEDULE

INCREASE OF PENALTIES

Act (1)	Provision of Act (2)	Increased Penalty (3)
Assurance Companies Act, 1909	24	A fine not exceeding £1,500
Insurance Act, 1936	9(2)	A fine not exceeding £1,500
	53(3)	A fine not exceeding £1,500
	61(3)	A fine not exceeding £1,500
	68(3)	A fine not exceeding £1,500
	75(2)	A fine not exceeding £1,500
	75(3)	A fine not exceeding £1,500
	109(1)	A fine not exceeding £1,500
	109(4)	A fine not exceeding £1,500

”.

SCHEDULE 2

“THIRD SCHEDULE

ANNEX II

INFORMATION FOR POLICYHOLDERS

The following information, which is to be communicated to the policyholder before the contract is concluded (A) or during the term of the contract (B), must be provided in a clear and accurate manner, in writing, in an official language of the Member State of the commitment.

However, such information may be in another language if the policyholder so requests and the law of the Member State so permits or the policyholder is free to choose the law applicable.

A. Before concluding the contract

Information about the assurance undertaking	Information about the commitment
(a)1. The name of the undertaking and its legal form	(a)4. Definition of each benefit and each option
(a)2. The name of the Member State in which the head office and, where appropriate, the agency or branch concluding the contract is situated	(a)5. Term of the contract
(a)3. The address of the head office and, where appropriate, of the agency or branch concluding the contract	(a)6. Means of terminating the contract
	(a)7. Means of payment of premiums and duration of payments
	(a)8. Means of calculation and distribution of bonuses
	(a)9. Indication of surrender and paid-up values and the extent to which they are guaranteed
	(a)10. Information on the premiums for each benefit, both main benefits and supplementary benefits, where appropriate
	(a)11. For unit-linked policies, definition of the units to which the benefits are linked
	(a)12. Indication of the nature of the underlying assets for unit-linked policies
	(a)13. Arrangements for application of the cooling-off period
	(a)14. General information on the tax arrangements applicable to the type of policy
	(a)15. The arrangements for handling complaints concerning contracts by policyholders, lives assured or beneficiaries under contracts including, where appropriate, the existence of a complaints body, without prejudice to the right to take legal proceedings
	(a)16. Law applicable to the contract where the parties do not have a free choice or, where the parties are free to choose the law applicable, the law the assurer proposes to choose

B. During the term of the contract

SCH. 2

In addition to the policy conditions, both general and special, the policyholder must receive the following information throughout the term of the contract.

Information about the assurance under-taking	Information about the commitment
(b)1. Any change in the name of the undertaking, its legal form or the address of its head office and, where appropriate, of the agency or branch which concluded the contract	(b)2. All the information listed in points (a)4 to (a)12 of A in the event of a change in the policy conditions or amendment of the law applicable to the contract (b)3. Every year, information on the state of bonuses

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