
Nru. 8

28. 11. 97

MALTA

KAMRA TAD-DEPUTATI

ABBOZZ ta' Liġi mressaq mill-Onorevoli Lino Spiteri, M.P., Ministru ta' l-Ekonomija u l-Finanzi, u moqri għall-Ewwel darba fis-Seduta tad-9 ta' Diċembru, 1996.

ATT biex jirregola r-registrazzjoni ta' *brokers* fl-assigurazzjoni u intermedjarji oħra u attivitajiet ta' intermedjarji fl-assigurazzjoni.

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

HOUSE OF REPRESENTATIVES

A BILL introduced by the Honourable Lino Spiteri, M.P., Minister for Economic Affairs and Finance, and read the First time at the Sitting of the 9th December, 1996.

AN ACT to regulate the registration of insurance brokers and other intermediaries and insurance intermediaries activities.

RICHARD J. CAUCHI
Clerk of the House of Representatives

**ATT TA' L-1996 DWAR *BROKERS* FL-ASSIGURAZZJONI
U INTERMEDJARJI OHRA**

Arranġament ta' l-Att

Preliminari

1. Titolu fil-qosor u bidu fis-sehh
2. Tifsir

Setgħat Regulatorji

3. Setgħat u dmirijiet tal-Ministru
4. Setgħat u dmirijiet ta' l-Awtorita' Kompetenti

**Reġistrazzjoni Jew Iskrizzjoni Għat-Tmexxija
Ta' Kummerċ Bħala *Brokers* Fl-Assigurazzjoni**

5. Ir-reġistru ta' *brokers* fl-assigurazzjoni
6. Kwalifiki għal reġistrazzjoni
7. Lista ta' kumpanniji li jmxxu kummerċ ta' *brokers* fl-assigurazzjoni
8. Kwalifiki ġenerali dwar iskrizzjoni
9. Kwalifiki speċifiċi għal iskrizzjoni fil-każ ta' kumpanniji lokali
10. Kwalifiki speċifiċi għal iskrizzjoni fil-każ ta' kumpanniji barranin
11. Reġistrazzjoni ta' persuni għat-tmexxija ta' kummerċ bħala *brokers* fl-assigurazzjoni
12. Iskrizzjoni ta' kumpanniji għat-tmexxija ta' kummerċ bħala *brokers* fl-assigurazzjoni
13. Għoti ta' reġistrazzjoni jew iskrizzjoni
14. Ċertifikat ta' reġistrazzjoni jew iskrizzjoni
15. Ftuħ ta' fergħat minn kumpanniji lokali iskritti
16. Thassir ta' isem mir-Reġistru tal-*Brokers* jew mil-Lista tal-*Brokers*
17. Avviż ta' hsieb ta' thassir ta' isem mir-Reġistru tal-*Brokers* jew mil-Lista tal-*Brokers*
18. Restituzzjoni ta' isem li jkun thassar mir-Reġistru tal-*Brokers* jew mil-Lista tal-*Brokers*

Obbligazzjonijiet Ta' Kumpanniji Iskritti

19. Flejjes miżmuma f'kapaċita' fiduċjarja
20. Garanzija ta' fedelta' mehtieġa minn kumpanniji iskritti
21. Kuntratti ta' assigurazzjoni dwar riskji sitwati f' Malta jew rabtiet meta Malta tkun il-pajjiż tar-rabta
22. Avviż dwar persuni reġistrati fir-Reġistru tal-*Brokers*
23. Għoti ta' dikjarazzjonijiet finanzjarji verifikati
24. Għoti ta' dikjarazzjonijiet dwar kummerċ ta' *broking* fl-assigurazzjoni
25. Kumpanniji li jicqfu mit-tmexxija ta' kummerċ bħala *broker* fl-assigurazzjoni

Sena Finanzjarja u Udituri

26. Sena finanzjarji ta' kumpanniji iskritti
27. Hatra, dmirijiet u terminazzjoni ta' hatra ta' udituri
28. Komunikazzjoni mill-udituri eċċ. ma' l-Awtorita' Kompetenti

Reġistrazzjoni u Iskrizzjoni Ta' Sotto-Agenti Fl-Assigurazzjoni

29. Ir-registri ta' kumpanniji ghal sotto-agenti fl-assigurazzjoni
30. Kwalfiki ghal reġistrazzjoni
31. Lista ta' persuni li jmxu attivitajiet ta' sotto-agenziji ta' l-assigurazzjoni
32. Restrizzjoni ta' persuni biex imxu attivitajiet ta' sotto-agent fl-assigurazzjoni
33. Hatra, reġistrazzjoni u iskrizzjoni ta' sotto-agenti fl-assigurazzjoni
34. Thassir ta' ismijiet mir-registri ta' kumpanniji ghal sotto-agenti
35. Avviż ta' thassir ta' ismijiet mir-registri ta' kumpanniji ghal sotto-agenti
36. Tharis ta' l-interess pubbliku jew interess ieħor
37. Restituzzjoni ta' isem imhassar mil-Lista ta' Sotto-agenti

Dispożizzjonijiet Ġenerali

38. Koperazzjoni fi dmirijiet ta' sorveljanza u skambju ta' informazzjoni
39. Konfidenzjalita'
40. Spezzjoni tar-registri u tal-listi
41. Użu tal-kelma " assicurazzjoni "
42. Notifika ta' avviżi, eċċ
43. *Underwriting agreements*
44. Tibdil fid-dokumentazzjoni
45. Appelli
46. Esklużjoni ta' responsabbilta'
47. Reati
48. Pieni
49. Applikazzjoni ta' ċerti artikoli ta' l-Att ta' l-1996 dwar il-Kummerċ ta' l-Assigurazzjoni ghal kumpanniji iskritti
50. Applikazzjoni ta' l-Att dwar il-Kontroll fuq il-Kambju
51. Rizervi

Skeda

Intermedjarji fl-Assigurazzjoni u Attivitajiet ta' Intermedjarji fl-Assigurazzjoni

Abbozz ta' Liġi msejjah

ATT biex jirregola r-registrazzjoni ta' brokers fl-assigurazzjoni u intermedjarji oħra u attivitajiet ta' intermedjarji fl-assigurazzjoni.

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

PRELIMINARI

Titolu fil-qosor
u bidu fis-schh.

1. (1) Dan l-Att jista' jissejjaħ l-Att ta' l-1996 dwar *Brokers* fl-Assigurazzjoni u Intermedjarji oħra.

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

Tifsir.

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

"assigurazzjoni affiljata" għandha l-istess tifsir kif mogħti lilha bis-subartikolu (1) ta' l-artikolu 2 ta' l-Att ta' l-1996 dwar il-Kummerç ta' l-Assigurazzjoni;

"assoċjazzjoni ta' *underwriters*" għandha l-istess tifsir kif mogħti lilha bl-Att ta' l-1996 dwar il-Kummerç ta' l-Assigurazzjoni;

"attivitajiet ta' intermedjarji fl-assigurazzjoni" u "attivitajiet" ifissru kull waħda mill-attivitajiet imniżżlin fil-paragrafi (1) u (2) tat-Tielet Kolonna ta' l-Iskeda u jinkludu kull attivitajiet oħra li jistgħu jiġu preskritti;

"attivitajiet ta' sotto-agenzija ta' l-assigurazzjoni", dwar persuna registrata bħala sotto-agent fl-assigurazzjoni, tfisser l-attivitajiet imniżżlin fil-paragrafu (2) tat-Tielet Kolonna ta' l-Iskeda;

"Awtorita' Kompetenti" tfisser il-korp stabbilit taħt is-subartikolu (2) ta' l-artikolu 3 ta' dan l-Att;

"*broker* fl-assigurazzjoni" tfisser persuna li tmexxi kummerç ta' *broking* fl-assigurazzjoni;

"ċertifikat ta' iskrizzjoni",

(a) dwar kumpannija li tmexxi kummerç bħala *broker* fl-assigurazzjoni, tfisser ċertifikat maħruġ mill-Awtorita' Kompetenti taħt l-artikolu 14 ta' dan l-Att lill-kumpannija, li juri li dik il-kumpannija tkun iskritta fil-Lista tal-*Brokers*; u

(b) dwar persuna registrata bhala sotto-agent fl-assigurazzjoni fir-Registru ta' Sotto-agenti ta' Kumpannija ta' xi kumpannija, tfisser ċertifikat mahruġ mill-awtorita' kompetenti taht l-artikolu 33 ta' dan l-Att, lill-kumpannija li tirregistra lil dik il-persuna, li juri li dik il-persuna tkun iskritta fil-Lista ta' Sotto-agenti;

"ċertifikat ta' registrazzjoni", dwar persuna registrata bhala *broker* fl-assigurazzjoni, tfisser ċertifikat mahruġ mill-Awtorita' Kompetenti taht l-artikolu 14 ta' dan l-Att lil dik il-persuna, li juri li dik il-persuna tkun registrata fir-Registru tal-*Brokers*;

"Direttiva dwar Intermedjarji fl-Assigurazzjoni" tfisser Direttiva dwar attivitajiet ta' intermedjarji fl-assigurazzjoni mahruġa mill-Awtorita' Kompetenti bis-sahha tas-subartikolu (2) ta' l-artikolu 4 ta' dan l-Att;

"direttur", dwar kumpannija, tinkludi individwu li jokkupa l-kariga ta' direttur tal-kumpannija, b'isem ikun li jkun imsejjah, li jkollu setgha li jmexxi sostanzjalment l-istess funzjonijiet relattivi ghad-direzzjoni tal-kumpannija bhal dawk maghmula minn direttur u, relattivament ghal kumpannija barranija, tinkludi membru ta' bord lokali kif ukoll agent u l-persuna msemmija bhala r-rappreżentant ta' dik il-kumpannija ghall-fini tas-sub-paragrafu (ii) tal-paragrafu (ċ) tas-subartikolu (1) ta' l-artikolu 10 ta' dan l-Att;

"fergħa" -

(a) dwar kumpannija lokali li tmexxi kummerċ bhala *broker* fl-assigurazzjoni, jew li tmexxi attivitajiet ohra ta' intermedjarji fl-assigurazzjoni li jistghu jigu preskritti, tfisser il-fond tal-kumpannija, barra mill-uffiċċju prinċipali tagħha, minn fejn jitmexxew il-kummerċ ta' *broking* fl-assigurazzjoni jew attivitajiet ohra ta' intermedjarji fl-assigurazzjoni li jistghu jigu preskritti; u

(b) dwar kumpannija barranija li tmexxi kummerċ bhala *broker* fl-assigurazzjoni jew li tmexxi attivitajiet ohra ta' intermedjarji fl-assigurazzjoni kif jista' jkun preskrit, tfisser il-fond f'Malta tal-kumpannija minn fejn il-kummerċ ta' *broking* fl-assigurazzjoni jew attivitajiet ohra ta' intermedjarji fl-assigurazzjoni ohra kif jistghu jigu preskritti jitmexxew minn persuna li tissodisfa l-htigijiet tas-subartikolu (2) ta' l-artikolu 10 ta' dan l-Att u li jkollha awtorita' li tagħxi ghall-kumpannija;

"fondi tal-kumpannija stess" għandha tiftiehem skond Direttiva dwar l-Intermedjarji fl-Assigurazzjoni maghmula għall-fini ta' dan l-Att;

"funzjonijiet" tinkludi responsabbiltajiet, setgħat u dmirijiet;

"grupp" u "gruppi ta' klassijiet", dwar kummerċ generali, tfisser xi grupp ta' klassijiet jew partijiet minn klassijiet speċifikati fit-Tielet Skeda li tinsab ma' l-Att ta' l-1996 dwar il-Kummerċ ta' l-Assigurazzjoni;

"holding kwalifikattiv ta' azzjonijiet" tfisser *holding* dirett jew indirett f'kumpannija li jirrappreżenta għaxra fil-mija jew iżjed tal-kapital azzjonarju maħruġ minn dik il-kumpannija jew tal-jeddijiet ta' votazzjoni marbuta ma' dak il-kapital azzjonarju jew li jagħmilha possibbli li tkun eżerċitata influwenza sinjifikanti fl-amministrazzjoni tal-kumpannija, u "azzjonist kwalifikanti" għandha tiftiehem f'dan is-sens;

"intermedjarju fl-assigurazzjoni" tfisser persuna li, bħala kummerċ, jew bħala parti mill-impieg tagħha, taqa' taht xi waħda mill-kategoriji mniżżlin fl-Ewwel jew fit-Tieni Kolonna ta' l-Iskeda u tinkludi persuna li tipprovdi servizzi anċillari għal attivitajiet ohra ta' intermedjarji fl-assigurazzjoni kif jista' jiġi preskritt;

"iskritt" -

(a) dwar kumpannija li tmexxi kummerċ bħala *broker* fl-assigurazzjoni, tfisser iskritt fil-Lista tal-*Brokers* taht l-artikolu 13 ta' dan l-Att; u

(b) dwar persuna registrata bħala sotto-*agent* fl-assigurazzjoni, tfisser iskritta fil-Lista ta' Sotto-*agenti* taht l-artikolu 33 ta' dan l-Att,

u, f'kull każ, "iskrizzjoni" għandha tiftiehem f'dan is-sens;

"klassi" -

(a) dwar kummerċ fit-tul, tfisser xi waħda mill-klassijiet speċifikati fit-Tieni Skeda li tinsab ma' l-Att ta' l-1996 dwar il-Kummerċ ta' l-Assigurazzjoni; u

(b) dwar kummerċ ġenerali, tfisser xi waħda mill-klassijiet speċifikati fit-Taqsima I tat-Tielet Skeda li tinsab ma' dak l-Att;

"klijent", dwar kumpannija iskritta, tfisser persuna li tikkuntattja, jew li tiġi kuntattjata minn, kumpannija iskritta bil-għan li tikseb jew li tagħti parir dwar il-htigiet ta' assigurazzjoni tagħha jew l-għemil ta' kuntratt ta' assigurazzjoni ma' kumpannija ta' l-assigurazzjoni jew li għaliha l-kumpannija iskritta tkun irrangat kuntratt ta' assigurazzjoni ma' kumpannija ta' assigurazzjoni;

"kondizzjonijiet" tinkludi obbligazzjonijiet u restrizzjonijiet;

"kontroll", dwar korp ġuridiku, tfisser is-setgħa biex jiġu stabbiliti l-*policies* finanzjarji u operattivi tal-korp ġuridiku;

"kontrollur", dwar korp ġuridiku, hija persuna li, waħedha jew flimkien ma' oħrajn, teżerċita kontroll relattivament għall-korp ġuridiku;

"korp ġuridiku" tfisser kull entita' li għandha l-personalita' legali distinta minn dik tal-membri tagħha;

"kummerċ ta' *broking* fl-assigurazzjoni", dwar *broker* fl-assigurazzjoni registrat jew kumpannija iskritta, tfisser l-attivitajiet imnizzlin fil-paragrafu (1) tat-Tielet Kolonna ta' l-Iskeda;

"kummerċ ta' l-assigurazzjoni " għandha l-istess tifsir kif mogħti lilha bis-subartikolu (1) ta' l-artikolu 2 ta' l-Att ta' l-1996 dwar il-Kummerċ ta' l-Assigurazzjoni;

"kummissjoni", dwar attivitajiet ta' intermedjarji fl-assigurazzjoni, tfisser kull remunerazzjoni bi flus imħallsa jew li għandha tithallas lil intermedjarji fl-assigurazzjoni u tinkludi kull kumpens ieħor jew oġġett ta' valur, ikunu li jkunu;

"kumpannija" tinkludi kumpannija lokali u kumpannija barranija;

"kumpannija awtorizzata" tfisser kumpannija li hi awtorizzata taht l-Att ta' l-1996 dwar il-Kummerċ ta' l-Assigurazzjoni biex tmexxi kummerċ ta' assigurazzjoni, barra minn kummerċ ta' rijassigurazzjoni jew assigurazzjoni affiljata, u tinkludi assoċjazzjoni ta' *underwriters* u persuna li bl-imsemmi Att tkun awtorizzata biex tagixxi bhala aġent ta' l-assigurazzjoni ta' dik il-kumpannija;

"kumpannija barranija" tfisser kumpannija registrata, inkorporata jew kostitwita barra minn Malta taht il-liġijiet ta' xi pajjiż, kemm-il darba dik il-kumpannija tkun harset id-dispożizzjonijiet ta' xi liġi li minn żmien għal żmien tkun issehh f' Malta u li tkun tirreferi għaliha;

Att Nru XXV ta' l-1995

"kumpannija lokali" tfisser kumpannija b'responsabbiltà limitata kostitwita f'Malta skond l-Att ta' l-1995 dwar il-Kumpanniji jew xi leġislazzjoni oħra li tissostitwiha;

"kumpannija ta' l-assigurazzjoni", dwar kumpannija iskritta, tfisser u tinkludi kumpannija, assoċjazzjoni ta' *underwriters* jew kull impriża oħra li leġittimament tmexxi kummerċ ta' l-assigurazzjoni;

"kuntratt ta' assigurazzjoni" u "kuntratt" għandhom l-istess tifsiriet kif mogħti lilhom bis-subartikolu (1) ta' l-artikolu 2 ta' l-Att ta' l-1996 dwar il-Kummerċ ta' l-Assigurazzjoni;

"Lista tal-*Brokers*" tfisser il-lista ta' kumpanniji li jmexxu kummerċ bhala *brokers* fl-assigurazzjoni stabbilita u miżmuma taht l-artikolu 7 ta' dan l-Att;

"Lista ta' Sotto-aġenti" tfisser il-lista ta' sotto-aġenti fl-assigurazzjoni registrati minn kumpanniji awtorizzati stabbilita u miżmuma taht is-subartikolu (1) ta' l-artikolu 31 ta' dan l-Att;

"Ministru" tfisser il-Ministru responsabbli għall-finanzi;

Att Nru XIV ta' l-1994

"*money laundering*" għandha l-istess tifsir kif mogħti lilha bl-Att ta' l-1994 kontra *Money Laundering*;

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

"rabta" u "pajjiż tar-rabta" ghandhom l-istess tifsiriet kif moghti lilhom bis-subartikolu (1) ta' l-artikolu 2 ta' l-Att ta' l-1996 dwar il-Kummeré ta' l-Assigurazzjoni;

"rappreżentant" ghandha tiftiehem skond l-artikolu 12 ta' l-Att ta' l-1996 dwar il-Kummeré ta' l-Assigurazzjoni;

"regġistrat"-

(a) dwar persuna regġistrata bhala *broker* fl-assigurazzjoni taht l-artikolu 13 ta' dan l-Att, tfigher irregġistrat fir-Regġistru tal-*Brokers*; u

(b) dwar persuna regġistrata bhala sotto-*agent* fl-assigurazzjoni taht l-artikolu 33 ta' dan l-Att, tfigher regġistrata fir-Regġistru ta' Kumpannija ta' Sotto-*agenti* ta' kumpannija wahda jew iżjed,

u, f'kull każ, "regġistrazzjoni" ghandha tiftiehem f'dan is-sens;

"Regġistru tal-*Brokers*" tfigher ir-regġistru tal-*brokers* fl-assigurazzjoni stabbilit u miżmum taht l-artikolu 5 ta' dan l-Att;

"Regġistru ta' Sotto-*agenti* ta' Kumpannija" tfigher ir-regġistru ta' sotto-*agenti* fl-assigurazzjoni stabbilit u miżmum minn kumpannija taht is-subartikolu (1) ta' l-artikolu 29 ta' dan l-Att;

"reklam", dwar attivitajiet ta' intermedjarji fl-assigurazzjoni, tfigher kull xorta ta' reklamar, sew bil-fomm jew bil-miktub, u bla hsara għall-generalità ta' dak li ntqal qabel, tinkludi reklamar f'pubblikazzjoni, il-wiri ta' avvizi, tabelli, tikketti jew kartelluni, bil-mezz ta' ittri, ċirkolarijiet, prospetti, katalgi, listi tal-prezzijiet jew dokumenti ohra, bil-wiri ta' stampi jew filmati fotografici jew ċinematografi, bil-mezz ta' xandir bis-smiġh jew bit-telewiżjoni, bit-tqassim ta' regġistrazzjonijiet jew b'xi mod ieħor, u riferenzi għall-ħruġ ta' reklam ghandhom jiftiehem f'dan is-sens;

"riskju sitwat f'Malta" ghandha l-istess tifsir kif moghti lilha bis-subartikolu (1) ta' l-artikolu 2 ta' l-Att ta' l-1996 dwar il-Kummeré ta' l-Assigurazzjoni;

"sena finanzjarja" ghandha tiftiehem skond is-subartikolu (4) ta' l-artikolu 26 ta' dan l-Att;

"Skeda" tfigher l-iskeda li tinsab ma' dan l-Att;

"sotto-*agent* fl-assigurazzjoni" tfigher persuna li tmexxi attivitajiet ta' sotto-*agenzija* fl-assigurazzjoni;

"uditor approvat" u "uditor" ghandhom it-tifsir moghti lilhom bis-subartikolu (10) ta' l-artikolu 27 ta' dan l-Att;

"uffiċjal", dwar kumpannija, tinkludi direttur, soċju, *manager*, jew segretarju tal-kumpannija jew xi persuna li effettivament taġixxi f'kariga bhal dik sew jekk mahtura formalment u sew jekk le;

(2) F'dan l-Att u f'kull regoli jew regolamenti maghmula bis-sahha tieghu, jekk ikun hemm xi konfliitt bejn it-test Ingliż u t-test Malti, ghandu jipprevali t-test Ingliż.

SETGHAT REGOLATORJI

Setghat u
dmirijiet
tal-Ministru.

3. (1) Ghandu jkun id-dmir tal-Ministru li jeżerċita s-setghat mogħtija lilu b'dan l-Att sabiex jiżgura t-tharis, minn persuni reġistrati bhala *brokers* fl-assigurazzjoni, kumpanniji iskritti biex imexxu kummerċ bhala *brokers* fl-assigurazzjoni u persuni li jmexxu attivitajiet ohra ta' intermedjarji fl-assigurazzjoni, tad-dispożizzjonijiet ta' dan l-Att u ta' kull regoli u regolamenti maghmula bis-sahha tieghu u ta' dawk il-kondizzjonijiet li minn żmien għal żmien ikunu speċifikati fiċ-ċertifikat ta' reġistrazzjoni jew ta' iskrizzjoni rispettiv.

(2) Il-Ministru ghandu b'Ordni fil-Gazzetta jahtar korp biex ikun l-Awtorita' Kompetenti għall-finijiet ta' dan l-Att sabiex jaqdi l-funzjonijiet ta' l-Awtorita' Kompetenti taht dan l-Att u sabiex jaqdi dawk il-funzjonijiet l-ohra li l-Ministru jidhiru xierqa dwar it-thaddim ta' dan l-Att. Dak il-korp ghandu jkun mahtur għal dak iż-żmien li jistabbilixxi l-Ministru u l-Ministru jkollu s-setgha li f'kull żmien itawwal, iġedded jew itemm dik il-hatra b'Ordni fil-Gazzetta.

(3) Il-Ministru jista', wara konsultazzjoni ma' l-Awtorita' Kompetenti, jagħmel ir-regoli jew ir-regolamenti li jistgħu jkunu meħtieġa sabiex titwettaq kull wahda mid-dispożizzjonijiet ta' dan l-Att u jista' jemenda jew jirrevoka dawk ir-regoli jew regolamenti; u, bla hsara għall-ġeneralita' ta' dak li ntqal qabel, il-Ministru jista', b'dawk ir-regoli jew regolamenti, b'mod partikolari, jipprovdi għal xi haġa jew kull haġa minn dan li ġej -

(a) id-drittijiet u l-hlasijiet li għandhom jingabru dwar kull haġa provduta għaliha b'dan l-Att jew tahtu u kull regoli jew regolamenti maghmula taht dan l-artikolu;

(b) ir-reġistrazzjoni u l-iskrizzjoni ta' persuni, barra minn persuni reġistrati u iskritti bis-sahha ta' dan l-Att, li jmexxu attivitajiet ta' intermedjarji fl-assigurazzjoni jew li jipprovdu għal servizzi anċillari għall-kummerċ ta' l-assigurazzjoni kif jista' jiġi preskritt;

(ċ) kull haġa li għandha x'taqsam jew li hi konnessa ma' xi dispożizzjoni li tinsab fl-Iskeda;

(d) il-penalitajiet amministrattivi li jistgħu jiġu mposti u miġbura mill-Awtorita' Kompetenti dwar infrazzjonijiet li jistgħu jiġu preskritti mingħajr ma jinstemgħu quddiem qorti; penali amministrattiva tkun dovuta lil-Awtorita' Kompetenti bhala dejn ċivili:

Iżda l-penali amministrattiva ma tistax tkun akbar minn penali finanzjarja ta' hamest elf lira Maltija dwar xi infrazzjoni u, meta l-infrazzjoni tkompli, penali ohra ta' mhux iżjed minn hamsin lira Maltija għal kull jum li matulu l-infrazzjoni tkompli.

(4) Il-Ministru jista' wkoll b'regolamenti taht dan l-artikolu, wara konsultazzjoni ma' l-Awtorita' Kompetenti, jistendi u jagħmel applikabbli kull waħda mid-dispożizzjonijiet ta' dan l-Att għal xi attivita' ta' intermedjarju fl-assigurazzjoni li tista' tiġi preskritta li fil-fehma tiegħu għandha, fl-interess pubbliku, tkun regolata b'dawk id-dispożizzjonijiet.

(5) Regoli u regolamenti magħmula taht dan l-Att u kull emenda jew revoka ta' dawk ir-regoli u regolamenti, jistgħu jkunu pubblikati bl-ilsien Ingliż biss.

Setgħat u
dmirijiet ta'
l-Awtorita'
Kompetenti.

4. (1) Għandu jkun id-dmir ta' l-Awtorita' Kompetenti li taqdi l-funzjonijiet mogħtija lilha b'dan l-Att jew tahtu u li tiżgura li persuni, kumpanniji jew intermedjarji ta' l-assigurazzjoni registrati jew iskritti skond dan l-Att u regoli jew regolamenti magħmula tahtu jharsu d-dispożizzjonijiet ta' dan l-Att u ta' kull regoli jew regolamenti magħmula tahtu, id-Direttivi dwar Intermedjarji ta' l-Assigurazzjoni magħmula mill-Awtorita' Kompetenti bis-saħħa ta' dan l-Att u ta' kull regoli u regolamenti magħmula tahtu, u mal-kondizzjonijiet speċifikati f'ċertifikati ta' registrazzjoni jew iskrizzjoni.

(2) L-Awtorita' Kompetenti tista' tagħmel Direttivi dwar Intermedjarji fl-Assigurazzjoni kif ikun meħtieġ sabiex jinġerata effett lil kull waħda mid-dispożizzjonijiet ta' dan l-Att u ta' kull regoli jew regolamenti magħmula bis-saħħa tiegħu. L-Awtorita' Kompetenti tista' temenda jew tirrevoka dawk id-Direttivi dwar Intermedjarji ta' l-Assigurazzjoni.

(3) Direttivi dwar Intermedjarji fl-Assigurazzjoni u kull emenda għalihom jew revoka tagħhom għandhom ikunu komunikati lill-persuni jew kumpanniji li għandhom x'jaqsmu u l-pubbliku jkun jista' jarahom fl-uffiċċji ta' l-Awtorita' Kompetenti f'kull hin matul il-hinijiet normali tax-xogħol ta' l-Awtorita'.

(4) Direttivi dwar Intermedjarji fl-Assigurazzjoni magħmula mill-Awtorita' Kompetenti bis-saħħa ta' dan l-Att jistgħu jipprovdu li htigiet regolatorji differenti jkunu applikabbli għal kategoriji differenti ta' intermedjarji fl-assigurazzjoni; u bla ħsara għad-Direttivi dwar Intermedjarji fl-Assigurazzjoni li huma mahruġa li jsiru taht dan l-Att u għall-generalita' ta' dak li ntqal qabel, l-Awtorita' Kompetenti tista', b'dawk id-Direttivi dwar Intermedjarji ta' l-Assigurazzjoni, b'mod partikolari -

(a) tistabbilixxi x'jikkostitwixxi x'inhu xieraq u idoneju dwar intermedjarji fl-assigurazzjoni;

(b) tistabbilixxi, dwar intermedjarji fl-assigurazzjoni, il-kriterji ta' direzzjoni tajba u prudenti;

(c) tistabbilixxi t-tagħrif li kumpanniji iskritti li jmexxu kummerċ bhala *brokers* fl-assigurazzjoni u persuni li jmexxu attivitajiet oħra ta' intermedjarji fl-assigurazzjoni għandhom jagħtu lil persuni li jkunu qed jitlobu jew jagħmlu użu minn servizzi ta' intermedjarji fl-assigurazzjoni;

(d) tistabbilixxi l-kodiċijiet ta' mġieba li jistgħu jirregolaw kull aspett ta' negozju bejn l-intermedjarji fl-

assigurazzjoni u kumpanniji fl-assigurazzjoni jew bejn dawk l-intermedjarji u persuni li jitolbu jew jagħmlu użu minn servizzi ta' intermedjarji fl-assigurazzjoni;

(e) tistabbilixxi, dwar kummerċ ta' attivitajiet intermedjarji fl-assigurazzjoni, il-ħruġ ta' reklami, u l-egħmil ta' xi attivitajiet oħra promozzjonali.

REGISTRAZZJONI JEW ISKRIZZJONI GHAT-TMEXXIJA T KUMMERĊ BHALA *BROKERS* FL-ASSIGURAZZJONI

Ir-registru ta' *brokers* fl-assigurazzjoni.

5. L-Awtorita' Kompetenti għandha tistabbilixxi u żzomm registru ta' persuni li jmexxu kummerċ ta' *broking* fl-assigurazzjoni, f'dan l-Att imsejjah "ir-Registru tal-*Brokers*", li jkun fih l-ismijiet, l-indirizzi, il-kwalifiki, u dawk il-partikolaritajiet l-oħra li l-Awtorita' Kompetenti tista', minn żmien għal żmien, b'Direttiva dwar Intermedjarji fl-Assigurazzjoni magħmula għall-fini ta' dan l-artikolu, tistabbilixxi, tal-persuni kollha li taht dan l-Att għandhom il-jedd li jkunu registrati fih u li japplikaw bil-mod stabbilit f'dik id-Direttiva biex ikunu hekk registrati.

Kwalifiki għal registrazzjoni.

6. (1) Bla ħsara għas-subartikolu (2) ta' dan l-artikolu, persuna għandha jedd li tkun registrata fir-Registru tal-*Brokers* jekk tissodisfa lill-Awtorita' Kompetenti li -

(a) tkun individwu;

(b) tkun persuna xierqa u idoneja, li tkun hekk registrata u li tiżgura d-direzzjoni tajba u prudenti tal-kumpannija;

(c) ikollha l-kwalifiki u tissodisfa jew thares il-htigiet stabbiliti b'Direttiva dwar Intermedjarji fl-Assigurazzjoni magħmula għall-finijiet ta' dan l-artikolu.

(2) Persuna ma jkollhiex jedd li tmexxi xi kummerċ ta' *broking* fl-assigurazzjoni bis-saħha tar-registrazzjoni tagħha taht dan l-artikolu kemm-il darba ma tkunx direttur jew impjegat ta' kumpannija li tkun iskritta taht l-artikolu 9 jew 10 ta' dan l-Att.

Lista ta' kumpanniji li jmexxu kummerċ ta' *brokers* fl-assigurazzjoni.

7. L-Awtorita' Kompetenti għandha tistabbilixxi u żzomm lista ta' kumpanniji li jkunu qed imexxu kummerċ bħala *brokers* fl-assigurazzjoni, f'dan l-Att imsejha "il-Lista tal-*Brokers*", li jkun fiha l-ismijiet, il-postijiet prinċipali tan-negozju u dawk il-partikolaritajiet l-oħra li l-Awtorita' Kompetenti tista', minn żmien għal żmien, b'Direttiva dwar Intermedjarji fl-Assigurazzjoni magħmula għall-fini ta' dan l-artikolu, tistabbilixxi, tal-kumpanniji kollha li taht dan l-Att għandhom il-jedd li jkunu iskritti fiha u li japplikaw bil-mod stabbilit f'dik id-Direttiva biex ikunu hekk iskritti.

Kwalifiki generali dwar iskrizzjoni.

8. Bla ħsara għall-artikolu 9 jew 10 ta' dan l-Att, skond il-każ, kumpannija jkollha l-jedd li tkun iskritta fil-Lista tal-*Brokers* jekk tissodisfa lill-Awtorita' Kompetenti li -

(a) l-ghanijiet tal-kumpannija jkunu limitati għall-kummerċ ta' *broking* fl-assigurazzjoni u għal ħwejjeġ jew

funzjonijiet konnessi mieghu jew anċillari ghalih, bl-eskluzjoni ta' kull kummerċ ta' negozju ieħor, barra minn kummerċ stabbilit b'Direttiva dwar Intermedjarji fl-Assigurazzjoni magħmula għall-finijiet ta' dan l-artikolu;

(b) il-fondi tal-kumpannija stess, kemm jekk f'li Maltin jew fi flus oħra aċċettabbli għall-Awtorita' Kompetenti, li f'kull żmien ikunu hielsa, jammontaw għal valur ta' mhux inqas minn hamsa u għoxrin elf lira Maltin, jew dak l-ammont oghla li jista' jiġi preskritt:

Izda l-Awtorita' Kompetenti tista' wkoll tehtieg dak l-ammont oghla li jidhrilha xierqa għax-xorta ta' kummerċ li jkun maħsub li jitmexxa mill-kumpannija.

(c) l-azzjonisti kwalifikanti kollha, il-kontrolluri u l-persuni kollha li effettivament jidderiġu l-funzjonijiet jew imexxu l-attivitajiet tal-kumpannija huma xierqa u idoneji biex jiżguraw id-direzzjoni tajba u prudenti tagħha;

(d) il-kumpannija tikxef għas-sodisfazzjon ta' l-Awtorita' Kompetenti dak it-tagħrif li l-Awtorita' Kompetenti tkun talbet minn għandha dwar il-persuni li, ma' l-iskrizzjoni tal-kumpannija jkollhom xi nteress proprjetarju, finanzjarju jew xi nteress ieħor, f'dik, jew in konnessjoni ma', dik il-kumpannija;

(e) il-kumpannija tissottometti għas-sodisfazzjon ta' l-Awtorita' Kompetenti skema ta' operazzjonijiet li għandha tinkludi partikolaritajiet jew provi kif jista' jiġi stabbilit bid-Direttiva dwar Intermedjarji fl-Assigurazzjoni magħmula għall-fini ta' dan l-artikolu;

(f) il-kumpannija jkollha fiż-żminijiet kollha favur tagħha polza ta' assigurazzjoni ta' indennizz professjonali aċċettabbli mill-Awtorita' Kompetenti, li jindennizza lilha, jew lil kull persuna mpjegata minnha, jew li xort'oħra taġixxi għan-nom tagħha, f'dak l-ammont, b'dak il-mod u dwar dawk il-hwejjeġ li l-Awtorita' Kompetenti tista' tistabilixxi minn żmien għal żmien.

Kwalifiki speċifiċi
għal iskrizzjoni
fil-każ ta'
kumpanniji lokali.

9. Kumpannija lokali jkollha l-jedd li tkun iskritta fil-Lista tal-*Brokers* jekk, b'zieda mal-htigiet ta' l-artikolu 8 ta' dan l-Att, l-Awtorita' Kompetenti tkun sodisfatta li wiehed jew iżjed mid-diretturi tal-kumpannija jkunu *brokers* fl-assigurazzjoni registrati u l-kummerċ tal-*broking* fl-assigurazzjoni jkun qed jitmexxa taht id-direzzjoni ta' *broker* fl-assigurazzjoni registrat.

Kwalifiki speċifiċi
għal iskrizzjoni
fil-każ ta'
kumpanniji barranin.

10. (1) Kumpannija barranija jkollha l-jedd li tkun iskritta fil-Lista tal-*Brokers* jekk, b'zieda mal-htigiet ta' l-artikolu 8 ta' dan l-Att, l-Awtorita' Kompetenti tkun sodisfatta li -

(a) il-kumpannija tkun registrata jew ikollha l-permess fil-pajjiż fejn l-uffiċċju prinċipali tagħha jkun qiegħed sitwat; biex tmexxi kummerċ ta' *broking* fl-assigurazzjoni;

(b) il-kumpannija jkollha f'Malta f'kull hin -

(i) fergħa; u

(ii) rappreżentant.

(2) Dwar fergħa ta' kumpannija barranija li tkun qed tmexxi kummerċ bhala *broker* fl-assigurazzjoni jew li tkun qed tmexxi xi attivitajiet ta' intermedjarji fl-assigurazzjoni li jistgħu jkunu preskritti, il-htigiet hemmhekk imsemmija huma dawn li jidhru fid-dispożizzjonijiet li ġejjin ta' dan is-subartikolu -

(a) fil-każ ta' kumpannija li tkun qed tmexxi kummerċ bhala *broker* fl-assigurazzjoni:

(i) il-persuna tkun *broker* fl-assigurazzjoni reġistrat;

(ii) il-persuna tkun direttur tal-kumpannija jew ikollha l-awtorita' li tagħxi għan-nom ta' dik il-kumpannija; u l-kummerċ ta' *broking* fl-assigurazzjoni jkun qed jitmexxa taht id-direzzjoni tagħha;

(iii) il-persuna ma tkunx uditur approvat, jew soċju jew impjegat ta' uditur approvat tal-kumpannija;

(b) fil-każ ta' kumpannija li tkun qed tmexxi attivitajiet ohra ta' intermedjarji fl-assigurazzjoni li jistgħu jkunu preskritti, id-dispożizzjonijiet li jkunu preskritti.

Reġistrazzjoni ta' persuni għat-tmexxija ta' kummerċ bhala *brokers* fl-assigurazzjoni.

11. Ebda persuna ma għandha tagħxi bhala *broker* fl-assigurazzjoni u tmexxi, jew tipprova tmexxi, f'Malta jew minn Malta, kummerċ bhala *broker* fl-assigurazzjoni kemm-il darba dik il-persuna ma tkunx reġistrata taht l-artikolu 13 ta' dan l-Att u tkun direttur jew impjegat ta' kumpannija iskritta taht dak l-artikolu.

Iskrizzjoni ta' kumpanniji għat-tmexxija ta' kummerċ bhala *brokers* fl-assigurazzjoni.

12. (1) Ebda kumpannija li tkun kumpannija lokali ma għandha tmexxi, jew tipprova tmexxi, f'Malta jew minn Malta, jew f'pajjiż jew minn pajjiż barra minn Malta, kummerċ bhala *broker* fl-assigurazzjoni kemm-il darba dik il-kumpannija ma tkunx iskritta taht l-artikolu 13 ta' dan l-Att.

(2) Ebda kumpannija li tkun kumpannija barranija ma għandha tmexxi, jew tipprova tmexxi, f'Malta jew minn Malta, kummerċ bhala *broker* fl-assigurazzjoni kemm-il darba dik il-kumpannija ma tkunx iskritta taht l-artikolu 13 ta' dan l-Att.

Għoti ta' reġistrazzjoni jew iskrizzjoni.

13. (1) Applikazzjoni għal reġistrazzjoni jew iskrizzjoni taht dan l-artikolu għandha ssir f'dik il-forma u b'dak il-mod li l-Awtorita' Kompetenti tista' tistabbilixxi minn żmien għal żmien.

(2) L-Awtorita' Kompetenti jkollha s-setgħa li tehtieg lil applikant jipprovdi dak it-tagħrif li jidhrilha mehtieg sabiex tiddeċiedi dwar applikazzjoni jew iskrizzjoni taht dan l-artikolu.

(3) L-Awtorita' Kompetenti tista' tagħti reġistrazzjoni jew iskrizzjoni taht dan l-artikolu biss jekk tkun sodisfatta, fuq il-bażi tat-

taghrif mehtieg li jinghata taht dan l-Att u kull taghrif li hi tircievi, li r-registrazzjoni jew l-iskrizzjoni ghandha tinghata.

(4) Bla hsara ghad-dispozizzjonijiet ta' dan l-Att, l-Awtorita' Kompetenti tista' tissuggetta registrazzjoni jew iskrizzjoni maghmula taht dan l-artikolu ghal dawk il-kondizzjonijiet li minn zmien ghal zmien jidhrilha xierqa li timponi.

(5) L-Awtorita' Kompetenti ghandha tiddeciedi applikazzjoni ghal registrazzjoni jew iskrizzjoni taht dan l-artikolu fi zmien tliet xhur minn meta tircievi t-taghrif li hu mehtieg li jinghata taht dan l-Att; u jekk tirrifjuta li taghti r-registrazzjoni jew l-iskrizzjoni ghandha tgharraf lill-applikant bil-miktub ir-ragunijiet ghar-rifjut.

Ċertifikati ta' registrazzjoni jew iskrizzjoni.

14. (1) Ma' l-ghoti ta' applikazzjoni ghal registrazzjoni jew iskrizzjoni taht l-artikolu 13 ta' dan l-Att, l-Awtorita' Kompetenti ghandha tohrog lill-applikant koncernat certifikat ta' registrazzjoni jew iskrizzjoni fil-forma u bil-mod li jidhrilha xieraq u li juri -

(a) fil-kaz ta' applikazzjoni ghal registrazzjoni, ir-registrazzjoni ta' l-applikant koncernat fir-Registru tal-*Brokers*;

(b) fil-kaz ta' applikazzjoni ghal iskrizzjoni, iskrizzjoni ta' l-applikant koncernat fil-Lista tal-*Brokers*.

(2) Ċertifikat ta' registrazzjoni jew iskrizzjoni mahrug taht dan l-artikolu jew kopja ufficjali tieghu, ghandha titqiegheed ghall-wiri f'post prominenti mid-detentur koncernat fil-post jew fil-postijiet tan-negozju tieghu, jew f'parti minnhom fejn il-pubbliku jkollu access.

Ftuh ta' ferghat minn kumpannija lokali iskritti.

15. (1) Kull kumpannija lokali iskritta taht l-artikolu 13 ta' dan l-Att ghandha tapplika ghand l-Awtorita' Kompetenti bil-miktub qabel ma tiftah fergha f'Malta.

(2) L-Awtorita' Kompetenti tista' taghti permess lil kumpannija lokali iskritta kif intqal qabel li tiftah fergha f'Malta jekk tkun sodisfatta li l-kummerc ta' *broking* fl-assigurazzjoni li jitmexxa minnha minn dik il-fergha jkun taht id-direzzjoni ta' *broker* fl-assigurazzjoni registrat.

(3) Hlief bil-kunsens bil-miktub ta' l-Awtorita' Kompetenti, ebda kumpannija lokali iskritta kif intqal qabel ma tista' tiftah fergha jew ufficcju jew tistabbilixxi jew takkwista xi sussidjarja f'xi pajjiz barra minn Malta.

Thassir ta' isem mir-Registru tal-*Brokers* jew mil-Lista tal-*Brokers*.

16. Bla hsara ghal kull haqa li tinsab f'xi dispozizzjoni ohra ta' dan l-Att, l-Awtorita' Kompetenti tista' f'kull zmien thassar mir-Registru tal-*Brokers* jew mil-Lista tal-*Brokers* l-isem ta' kull persuna registrata jew kumpannija iskritta jekk -

(a) xi dokument jew taghrif li jinghata ma' applikazzjoni ghar-registrazzjoni jew iskrizzjoni, jew xi taghrif li jinghata dwarha, ikun falz, mhux korrett jew qarrieqi f'xi partikolar materjali, jew jekk il-persuna registrata jew il-kumpannija iskritta tkun hbiet, jew hbiet minn, jew tonqos li tgharraf lil, l-Awtorita' Kompetenti xi dokument jew taghrif jew tibdil fih li kienet fid-dmir li tikxef jew li tgharraf taht dan l-Att jew xi regoli jew

regolamenti magħmula bis-sahha tieghu, jew xi Direttiva dwar Intermedjarji fl-Assigurazzjoni; jew

(b) tikkonsidra li l-persuna registrata jew l-kumpannija iskritta ma tkunx tissodisfa il-htigiet ta', jew tkun kisret, xi wahda mid-dispożizzjonijiet ta' dan l-Att jew ta' xi regoli jew regolamenti magħmula bis-sahha tieghu, jew ta' xi Direttiva dwar Intermedjarji fl-Assigurazzjoni, jew tkun naqset li tissodisfa jew thares xi kondizzjoni li hu jew hi, jew ir-registrazzjoni jew l-iskrizzjoni, ikunu sugġetti għaliha bis-sahha ta' dan l-Att jew tahtu; jew

(c) tikkonsidra li l-persuna registrata ma tkunx tajba biex isimha jibqa' fuq ir-Registru tal-*Brokers* jew il-kumpannija iskritta ma tkunx tajba biex isimha jibqa' fuq il-Lista tal-*Brokers*; jew

(d) tirċievi talba bil-miktub biex tagħmel hekk minghand il-persuna registrata jew il-kumpannija iskritta; jew

(e) il-kumpannija iskritta ma jkunx baqgħalha il-fondi tal-kumpannija stess biżżejjed kemm mehtieg; jew

(f) il-persuna registrata jew il-kumpannija iskritta tonqos li thallas id-dritt meta jkun dovut biex tibqa' registrata jew tibqa' iskritta; jew

(g) il-persuna registrata jew il-kumpannija iskritta ma jibdexw imexxu l-kummerċ ta' *broking* fl-assigurazzjoni fi żmien tnax -il xahar mir-registrazzjoni jew mill-iskrizzjoni, jew f'dak iż-żmien l-iehor li jista' jigi speċifikat fiċ-ċertifikat tar-registrazzjoni jew iskrizzjoni, jew li jista' jinghata mill-Awtorita' Kompetenti; jew

(h) il-kumpannija iskritta tkun giet dikjarata falluta jew tmur f'likwidazzjoni jew tagħmel kompożizzjoni mal-kredituri tagħha jew xort'ohra tkun xolta; jew

(i) jekk il-kumpannija iskritta ma jibqax ikollha fuq il-bord tad-diretturi tagħha xi persuna li tkun *broker* fl-assigurazzjoni registrat; jew

(j) tikkonsidra li, minhabba l-mod li bih il-persuna registrata jew il-kumpannija iskritta tkun qed tmexxi l-kummerċ ta' *broking* fl-assigurazzjoni, jew għal xi raġuni valida ohra, l-interess ta' l-industrija ta' l-assigurazzjoni jew tal-pubbliku ikun mhedded; jew

(k) il-persuna registrata jew il-kumpannija iskritta tkun miżapproprjat jew ikkonvertit għall-użu tagħha jew zammet illegalment flus li jkunu miżmuma, jew mehtieġa li jinżammu, minnha bhala fiduċjarja; jew

(l) il-persuna registrata tkun misjuba hatja minn xi qorti ta' ligi ta' xi reat kriminali, li ma jkunx reat li, minhabba ċ-ċokon tieghu jew iċ-ċirkostanzi li fih ikun sar, ma jirrendihix mhux xierqa biex isimha jkun fuq ir-Registru tal-*Brokers*; jew

(m) il-persuna registrata jew il-kumpannija iskritta tkun meqjusa mill-Awtorita' Kompetenti li tkun mexxiet kummeré ta' *broking* fl-assigurazzjoni b'mod mhux professjonali.

Avviż ta' hsieb ta' thassir ta' isem mir-Registru tal-*Brokers* jew mil-Lista tal-*Brokers*.

17. (1) Bla hsara ghad-dispożizzjonijiet li ġejjin ta' dan l-artikolu, meta l-Awtorita' Kompetenti jkun bi hsiebha thassar l-isem ta' persuna registrata jew ta' kumpannija iskritta mir-Registru tal-*Brokers* jew mil-Lista tal-*Brokers*, din ghandha taghti avviż bil-miktub lill-persuna jew lill-kumpannija fejn taghti r-raġunijiet ghalix bi hsiebha taghmel hekk.

(2) Kull avviż moghti taht is-subartikolu (1) ta' dan l-artikolu ghandu jghid li l-persuna jew il-kumpannija konċernata tista', f'dak iż-żmien xieraq min-notifika hekk kif jinghad fl-avviż (li ma jkunx inqas minn tmienja u erbghin siegħa u mhux iktar minn hmistax-il jum) taghmel rappreżentazzjonijiet bil-miktub lill-Awtorita' Kompetenti fejn taghti r-raġunijiet ghalix ir-registrazzjoni jew l-iskrizzjoni ma ghandhiex tithassar mir-Registru tal-*Brokers* jew mil-Lista tal-*Brokers* u l-Awtorita' Kompetenti tista' tikkunsidra kull rappreżentazzjonijiet hekk maghmula qabel tasal għal deċiżjoni finali.

(3) L-Awtorita' Kompetenti ghandha tavża bil-miktub id-deċiżjoni finali tagħha lill-persuna jew lill-kumpannija konċernata.

(4) Ma' l-avviż mill-Awtorita' Kompetenti lil persuna jew kumpannija li isimha jkun thassar mir-Registru tal-*Brokers* jew mil-Lista tal-*Brokers*, il-persuna jew il-kumpannija konċernata ghandha minnufih tikkonsenja lill-Awtorita' Kompetenti ċ-ċertifikat tar-registrazzjoni jew iskrizzjoni, u kull kopji uffiċjali tiegħu.

Restituzzjoni ta' isem li jkun thassar mir-Registru tal-*Brokers* jew mil-Lista tal-*Brokers*.

18. (1) Meta l-isem ta' persuna jew ta' kumpannija jkun thassar mir-Registru tal-*Brokers* jew mil-Lista tal-*Brokers* skond deċiżjoni li tittiehed taht l-artikolu 16 ta' dan l-Att, l-isem ta' dik il-persuna jew kumpannija ma jergghux jidhlu fir-registru jew fil-lista kemm-il darba -

(a) ma jkunx ordnat xort'ohra mit-Tribunal dwar *Servizzi Finanzjarji*; jew

(b) fin-nuqqas ta' dak l-ordni, l-Awtorita' Kompetenti, fuq applikazzjoni maghmula lilha għal dan l-ghan, ma tiddeċidix xort'ohra.

(2) L-Awtorita' Kompetenti ghandha tiddeċiedi fuq applikazzjoni għar-restituzzjoni ta' isem ta' persuna jew ta' kumpannija fir-Registru tal-*Brokers* jew fil-Lista tal-*Brokers* taht dan l-artikolu fi żmien tliet xhur minn meta tirċievi t-tagħrif mehtieg li jinghata taht dan l-Att daqslikieku l-applikazzjoni kienet applikazzjoni maghmula taht l-artikolu 13 ta' dan l-Att; u jekk tirrifjuta li tirrestitwixxi isem ta' persuna jew ta' kumpannija fir-Registru tal-*Brokers* jew fil-Lista tal-*Brokers*, din ghandha tgharraf lill-applikant bil-miktub ir-raġunijiet għar-rifjut.

(3) Is-subartikolu (2) ta' dan l-artikolu ma japplikax meta r-restituzzjoni ta' isem ta' persuna jew ta' kumpannija fir-Registru tal-Brokers jew fil-Lista tal-Brokers ssir b'ordni tat-Tribunal.

OBBLIGAZZJONIJIET TA' KUMPANNIJI ISKRITTI

Flejjes miżmuma
f'kapacita'
fiduċjarja.

19. (1) Kull kumpannija iskritta għandha żżomm il-flejjes kollha li jkunu għandha f'kapacita' fiduċjarja separati mill-flejjes tagħha stess u għandha, dwar dawk il-flejjes, iżżomm kontijiet separati skond htigiet stabbiliti minn Direttiva dwar Intermedjarji fl-Assigurazzjoni magħmula għall-finijiet ta' dan l-artikolu.

(2) Ebda persuna m'għandu jkollha jew tikseb xi rimedju jew driet dwar flejjes li jkunu bi kreditu tal-kont imsemmi fis-subartikolu (1) ta' dan l-artikolu dwar xi talba jew dritt kontra kumpannija iskritta sakemm kull talba proprja għal dawk il-flejjes tkun giet sodisfatta.

Garanzija ta'
fedelta' meħtieġa
minn kumpanniji
iskritti.

20. (1) Bla hsara għall-artikolu 19 ta' dan l-Att, kull kumpannija iskritta għandha tagħmel garanzija ta' fedelta' f'forma speċifikata, dwar il-kummerċ tagħha ta' *broking* fl-assigurazzjoni, f'dawk iċ-ċirkustanzi, ta' dak il-valur, b'dak il-mod u taht dawk il-kondizzjonijiet li jistgħu jigu stabbiliti b'Direttiva dwar Intermedjarji fl-Assigurazzjoni magħmula għall-finijiet ta' dan l-artikolu.

(2) Il-garanzija msemmija fis-subartikolu (1) ta' dan l-artikolu għandha tipprovdi li fil-każ li kumpannija iskritta ma tkunx tista' jew tonqos milli tissodisfa l-obbligazzjonijiet finanzjarji tagħha dwar xi somom ta' flus riċevuti minnha minghand, jew għan-nom ta', il-klijenti tagħha, somma ta' flus titqiegħed għad- dispożizzjoni ta' persuna nominata jew approvata mill-Awtorita' Kompetenti biex tintuża għall-benefiċċju ta' xi klijent tal-kumpannija li jkun sofra telf jew dannu minhabba li l-kumpannija ma tkunx setgħat jew naqset milli tissodisfa dawk l-obbligazzjonijiet finanzjarji tagħha.

Kuntratti ta'
assigurazzjoni
dwar riskji sitwati
f'Malta jew rabtiet
meta Malta tkun
il-pajjiż tar-rabta.

21. (1) Bla hsara għas-subartikoli li ġejjin ta' dan l-artikolu, hlief bl-approvazzjoni tal-Ministru mogħtija b'mod generali b'Ordni fil-Gazzetta, jew bl-approvazzjoni ta' l-Awtorita' Kompetenti mogħtija speċifikament bil-miktub, kuntratt ta' assicurazzjoni dwar riskju sitwat f'Malta jew dwar rabta meta Malta tkun il-pajjiż tar-rabta, negozjat, irrangat jew miksub minn kumpannija iskritta f'isem persuna assicurata jew persuna li tkun se tiġi assicurata għandu jsir ma' kumpannija awtorizzata.

(2) Meta kuntratt ta' assicurazzjoni jkun kuntratt ta' klassi ta' kummerċ generali jew ta' parti minn klassi li jaqa' taht il-grupp 3 tal-Parti II tat-Tielet Skeda li tinsab ma' l-Att ta' l-1996 dwar il-Kummerċ ta' l-Assigurazzjoni u dak il-kuntratt ikun kuntratt dwar riskju sitwat f'Malta u jittiehed ma' *Protection and Indemnity Club*, dak il-*Club* għandu jkun *Club* taht it-tifsira ta' "*Protection and Indemnity Club*" kif miftiehem skond is-subartikolu (3) ta' l-artikolu 6 ta' l-imsemmi Att; u l-*Club* għandu jissodisfa jew ihares il-htigiet ta' Direttiva dwar l-Assigurazzjoni magħmula għall-finijiet ta' l-imsemmi artikolu jew mad-data jew qabel id-data tal-bidu fis-seħħ ta' dak il-kuntratt jew mhux iktar tard minn tletin jum mid-data ta' dak il-bidu fis-seħħ.

(3) Hlief kif provdut fis-subartikolu (2) ta' dan l-artikolu, id-diżposizzjonijiet ta' dan l-artikolu ma japplikawx ghal -

(a) kummeré ta' assigurazzjoni ta' xi klassi, jew ta' parti minn klassi, skond it-tifsir moghti fil-gruppi 3 u 4, li ma jkunux kuntratti dwar riskji marittimu li l-Ministru jista', b'Ordni fil-Gazzetta, minn żmien ghal żmien jistabbilixxi;

(b) kummeré ta' rijassigurazzjoni jew assigurazzjoni affiljata.

Avviż dwar persuni
reġistrati fir-Registru
tal-Brokers..

22. Kull kumpannija iskritta ghandha, mhux iktar tard mill-ahhar ta' Jannar ta' kull sena, taghti avviż bil-miktub lill-Awtorita' Kompetenti b'dak il-mod li l-Awtorita' Kompetenti tista' tehtieg, l-isem u l-partikolaritajiet l-oħra li wkoll tista' tehtieg, ta' kull direttur u mpjegat tal-kumpannija li jkunu reġistrati fir-Registru tal-Brokers; u matul it-tmax-il xahar ta' wara, il-kumpannija ghandha taghti avviż bil-miktub lill-Awtorita' Kompetenti b'kull tibdil li, minn żmien ghal żmien, jista' jkun hemm fost dawk id-diretturi u mpjegati, u dak l-avviż ghandu jinghata mhux iktar tard minn ghoxrin jum mid-data li jigri dan it-tibdil.

Għoti ta' dikjarazz-
jonijiet finanzjarji
verifikati.

23. Kull kumpannija iskritta ghandha, mhux iktar tard minn erba' xhur mid-data ta' l-eghluq tas-sena finanzjarja tagħha, jew f'xi żmien iehor li eċċezjonalment ikun awtorizzat bil-miktub mill-Awtorita' Kompetenti, tibghat lill-Awtorita' Kompetenti kopja tad-dikjarazzjonijiet finanzjarji verifikati tagħha li jkunu saru skond id-dispożizzjonijiet ta' l-Att dwar il-Kumpanniji.

Għoti ta' dikjarazz-
jonijiet
dwar kummeré
ta' broking fl-
assigurazzjoni.

24. (1) Bla hsara ghas-subartikoli li ġejjin ta' dan l-artikolu, kumpannija iskritta li f'xi sena kalendarja tmexxi kummeré ta' *broking* fl-assigurazzjoni ghandha, dwar il-kummeré ta' *broking* fl-assigurazzjoni li hekk tkun mexxiet, tibghat lill-Awtorita' Kompetenti dikjarazzjoni dwar dak il-kummeré magħmula f'dik il-forma, f'dak il-mod u b'dak il-kontenut li l-Awtorita' Kompetenti tista' tistabbilixxi b'Direttiva dwar Intermedjarji fl-Assigurazzjoni magħmula għall-finijiet ta' dan l-artikolu; u d-data sa meta dik id-dikjarazzjoni ghandha tintbaghat tkun ukoll stabbilita b'dik id-Direttiva

(2) Id-dikjarazzjoni li ghandha tinghata taht dan l-artikolu ghandha tkun verifikata bil-mod mehtieg bid-Direttiva dwar Intermedjarji fl-Assigurazzjoni.

(3) L-Awtorita' Kompetenti tista' f'kull żmien tordna lil kumpannija iskritta biex tagħtiha dik id-dikjarazzjoni kull tant żmien u ghal dak il-perjodu li tista' tispeċifika f'dak l-ordni.

Kumpanniji li
jieqfu mit-tmexxija
ta' kummeré bhala
broker
fl-assigurazzjoni.

25. Kumpannija iskritta ma ghandhiex tieqaf milli tmexxi, f'Malta jew minn Malta, kummeré bhala *broker* fl-assigurazzjoni hlief bil-permess ta' l-Awtorita' Kompetenti moghti bil-miktub fuq applikazzjoni li ssirilha ghal hekk b'dak il-mod li tista' tehtieg, u bit-taris ta' dawk il-kondizzjonijiet li jidhirlha xierqa li timponi.

SENA FINANZJARJA U UDITURI

Sena finanzjarja ta' kumpanniji iskritti.

26. (1) Kull kumpannija iskritta li tkun kumpannija lokali ghandha mhux iktar tard minn tliet xhur mid-data ta' l-iskrizzjoni tal-kumpannija, tavza bil-miktub lill-Awtorita' Kompetenti meta tkun is-sena finanzjarja taghha; u, fin-nuqqas ta' dak l-avviz, is-sena finanzjarja tal-kumpannija ghandha tintemm fil-wiehed u tletin ta' Diċembru ta' kull sena.

(2) Ebda kumpannija iskritta kif intqal qabel ma ghandha tibdel is-sena finanzjarja taghha kemm-il darba u sakemm l-Awtorita' Kompetenti ma tkunx tat l-approvazzjoni taghha bil-miktub fuq applikazzjoni li ssirilha ghal hekk.

(3) Kull kumpannija barranija li tapplika ghal iskrizzjoni taht l-artikolu 13 ta' dan l-Att ghandha, ma' l-applikazzjoni, tavza bil-miktub lill-Awtorita' Kompetenti meta tkun is-sena finanzjarja taghha; u wara l-iskrizzjoni taht dak l-artikolu, meta kumpannija barranija tibdel is-sena finanzjarja taghha, ghandha minnufih tavza bil-miktub lill-Awtorita' Kompetenti b'dak it-tibdil.

(4) Għall-finijiet ta' dan l-Att sena finanzjarja -

(a) dwar kumpannija iskritta li tkun kumpannija lokali, tisser perijodu ta' kontijiet kif jiftiehem skond l-artikoli minn 164 sa 166 ta' l-Att dwar il-Kumpanniji;

(b) dwar kumpannija iskritta li tkun kumpannija barranija, tisser perijodu ta' kontijiet kif jiftiehem skond id-dispozizzjonijiet tal-ligijiet tal-pajjiż fejn ikun qiegħed l-uffiċċju prinċipali tal-kumpannija li jkunu jirregolaw il-perijodu ta' kontijiet ta' dawk il-kumpanniji.

Hatra, dmirijiet u terminazzjoni ta' hatra ta' udituri.

27. (1) Kull kumpannija iskritta ghandha kull sena tahtar uditur approvat bhala uditur tal-kumpannija li d-dmir tiegħu jkun li jirrapporta dwar id-dikjarazzjonijiet finanzjarji tal-kumpannija eżaminati minnu u dwar id-dikjarazzjonijiet finanzjarji mhejjija mill-kumpannija.

(2) Jekk kumpannija iskritta tonqos li tahtar uditur skond is-subartikolu (1) ta' dan l-artikolu jew, f'xi żmien tonqos li timla vakanza fil-kariga ta' uditur, l-Awtorita' Kompetenti jkollha s-setgħa li tahtar uditur għal dik il-kumpannija u ghandha tistabbilixxi r-remunerazzjoni li ghandha tithallas minn dik il-kumpannija lil dak l-uditur.

(3) Ir-rapport ta' l-uditur għandu jinkludi dikjarazzjoni dwar jekk id-diversi htigiet ta' dan l-Att u ta' kull regoli jew regolamenti magħmula tahtu u ta' kull Direttiva dwar Intermedjarji fl-Assigurazzjoni dwar il-kumpannija ikunux tharsu u gew osservati.

(4) Kull uditur ta' kumpannija iskritta jkollu l-jedd li jitlob dak it-tagħrif jew spjegazzjoni li jidhirlu mehtiega fil-qadi tad-dmirijiet tiegħu mingħand kull uffiċjal jew impjegat ta', jew kull persuna li jkollha hatra minn, dik il-kumpannija.

(5) Uditur ghandu minnufih javża bil-miktub lill-Awtorita' Kompetenti jekk -

(a) jirriżenja;

(b) ma jkunx bi hsiebu jiehu dik il-kariga mill-ġdid;
jew

(c) jiddeċiedi li jikkwalifika r-rapport ta' verifika,

u, fil-każ ta' riżenja, l-uditur ghandu jispeċifika r-raġunijiet għaliex għamel hekk.

(6) Kumpannija iskritta ghandha taghti avviż bil-miktub lill-Awtorita' Kompetenti minnufih malli tirċievi avviż ta' riżoluzzjoni mahsub biex jitqiegħed quddiem il-laqgħa ġenerali annwali tal-kumpannija biex tinhatar bhala uditur persuna li ma tkunx l-uditur li se jirtira jew li xort'ohra jipprovdri espressament li l-uditur li jkun se jirtira ma jergax jiġi mahtur.

(7) Meta, għal xi raġuni tkun li tkun, il-hatra ta' uditur tintemm, il-kumpannija iskritta ghandha, mhux iktar tard minn erbatax -il jum mit-tmiem ta' dik il-hatra, taghti avviż bil-miktub lill-Awtorita' Kompetenti fejn tgħid ir-raġunijiet għal dak it-tmiem.

(8) L-Awtorita' Kompetenti tista' tehtieg lil kumpannija iskritta biex tibdel lill-uditur mahtur minnha meta, fil-fehma ta' l-Awtorita' Kompetenti, dak l-uditur jitqies li ma jkunx adatt għal din il-kariga, f'xi żmien matul il-perijodu tal-hatra tiegħu.

(9) Qabel ma tehtieg lil kumpannija iskritta biex tbiddel lill-uditur tagħha fiċ-ċirkostanzi msemmija fis-subartikolu (8) ta' dan l-artikolu, l-Awtorita' Kompetenti ghandha tavża bil-miktub l-intenzjoni tagħha lill-kumpannija u lill-uditur konċernat fejn tagħti r-raġunijiet li tehtieg dak it-tibdil u tagħti lill-uditur l-opportunita' li jissottometti fi żmien erbatax-il jum mid-data tan-notifika ta' dak l-avviż, ir-raġuni għaliex il-hatra tiegħu ma' dik il-kumpannija ma għandhix tintemm.

(10) Għall-finijiet ta' dan l-Att, uditur approvat ghandu jkun persuna li tkun kwalifikata biex tkun uditur skond l-Att dwar il-Kumpanniji u li jkollha l-awtorizzazzjoni ta' Awtorita' Kompetenti biex taġixxi bhala uditur ta' kumpannija awtorizzata biex tmexxi l-kummerċ ta' assigurazzjoni taht l-Att ta' l-1996 dwar il-Kummerċ ta' l-Assigurazzjoni.

(11) Minkejja kull haġa li tinsab fis-subartikoli ta' qabel ta' dan l-artikolu, l-Awtorita' Kompetenti tista', fil-każ ta' kumpannija barranija, tapprova dawk l-arrangamenti alternattivi li jidhrilha raġonevoli u li ma jkunux jiddevjaw materjalment mill-għanijiet ewlenin ta' dan l-artikolu, u meta dawk l-arrangamenti jkunu twettqu, id-dispożizzjonijiet ta' dan l-artikolu ma għandhomx japplikaw safejn ikunu sostitwiti b'dawk l-arrangamenti.

(12) Jekk, fil-kariga tiegħu bhala uditur ta' kumpannija iskritta jew bhala riżultat ta' talba diretta mill-Awtorita' Kompetenti taht dan l-Att, uditur isir jaf b'xi materja li jkollha x'taqsam ma' u li jista' jkollha effett avvers serju fuq l-istabbilita' u s-saħħa tal-

kumpannija jew l-integrità tal-kummerċ tal-*broking* fl-assigurazzjoni f'Malta, huwa għandu minnufih jgħarraf lill-Awtorità Kompetenti permezz tad-direzzjoni tal-kumpannija jew, jekk iċ-ċirkostanzi hekk jiġġustifikaw, direttament lill-Awtorità Kompetenti.

(13) Sa fejn id-dispożizzjonijiet ta' dan l-artikolu huma inkonsistenti mad-dispożizzjonijiet ta' l-Att dwar il-Kumpanniji, id-dispożizzjonijiet ta' dan l-artikolu għandhom jipprevalu u d-dispożizzjonijiet ta' l-imsemmi Att ma għandhomx, sa fejn ikunu inkonsistenti, japplikaw għal kumpannija iskritta.

Komunikazzjoni
mill-udituri
eċċ. ma' l-Awtorità
Kompetenti.

28. Ebda dmir (inkluż id-dmir tas-sigriet professjonali) li għalih -

(a) uditur ta' kumpannija iskritta jista' jkun sugġett, ma għandu jitqies li jkun inkiser minhabba li dan ikun b'*bona fide* ikkomunika lill-Awtorità Kompetenti, sew jekk wara talba li din tkun għamlet u sew jekk le, xi informazzjoni jew opinjoni dwar materja li l-uditur ikun sar jaf biha minhabba l-kariga tiegħu bhala uditur ta' dik il-kumpannija u li tkun rilevanti għal xi funzjoni ta' l-Awtorità Kompetenti taht id-dispożizzjonijiet ta' dan l-Att jew li tkun mehtieġa li tkun komunikata bis-saħħa ta' dan l-Att;

(b) persuna mahtura biex tagħmel rapport taht xi dispożizzjoni ta' dan l-Att tista' tkun sugġetta, ma għandu jitqies li jkun inkiser minhabba li dan ikun ikkomunika in *bona fide* lill-Awtorità Kompetenti, sew jekk wara talba li din tkun għamlet u sew jekk le, fuq xi haġa li għandha x'taqsam mal-kummerċ jew l-affarijiet ta' kumpannija iskritta li dwarha jsir rapport.

REGISTRAZZJONI U ISKRIZZJONI TA' SOTTO-AĠENTI FL-ASSIGURAZZJONI

Ir-registri ta'
kumpanniji għal
sotto-aġenti
fl-assigurazzjoni.

29. (1) Kull kumpannija awtorizzata li tkun tixtieq tahtar persuna biex taġixxi f'isimha bhala sotto-aġent fl-assigurazzjoni għandha tistabbilixxi u żżomm registru ta' persuni li jaħdmu bhala sotto-aġenti fl-assigurazzjoni, f'dan l-Att imsejjah "ir-Registru ta' Kumpannija għal Sotto-aġenti", li jkun fih l-ismijiet, l-indirizzi, il-klassi jew klassijiet ta' kummerċ fit-tul jew il-grupp jew gruppi ta' klassijiet ta' kummerċ ġenerali li jkun se jitmexxa minn dawk il-persuni skond il-hatra rispettiva ta' sotto-aġenzija u dawk il-partikolaritajiet l-oħra li l-Awtorità Kompetenti tista' tistabbilixxi, minn żmien għal żmien, b'Direttiva dwar Intermedjarji fl-Assigurazzjoni magħmula għall-finijiet ta' dan l-artikolu, tal-persuni kollha li għandhom jedd li jkunu registrati fih taht dan l-Att.

(2) Bla hsara għad-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu, kull kumpannija awtorizzata għandha tistabbilixxi l-proċeduri tagħha stess dwar il-hatra u r-registrazzjoni ta' persuna bhala sotto-aġent fl-assigurazzjoni fir-Registru ta' Kumpannija għal Sotto-aġenti ta' dik il-kumpannija.

Kwalifiki ghal
reġistrazzjoni.

30. (1) Persuna jkollha l-jedd li tkun reġistrata minn kumpannija awtorizzata fir-Registru ta' Kumpannija ghal Sotto-agenzi tal-kumpannija jekk il-kumpannija tkun sodisfatta li dik il-persuna tkun xierqa u idoneja li tmexxi attivitajiet ta' sotto-agenzija fl-assigurazzjoni.

(2) Persuna ma jkollhix jedd tmexxi attivitajiet ta' sotto-agenzija fl-assigurazzjoni bis-sahha tar-reġistrazzjoni taghha taht dan l-artikolu sakemm u mhux qabel ma tkun iskritta mill-Awtorita' Kompetenti fil-Lista ta' Sotto-agenzi taht l-artikolu 33 ta' dan l-Att.

Lista ta' persuni
li jmexxu attivitajiet
ta' sotto-agenziji
ta' l-assigurazzjoni.

31. (1) L-Awtorita' Kompetenti ghandha tistabbilixxi u żżomm lista ta' persuni li jmexxu attivitajiet ta' sotto-agenzija fl-assigurazzjoni, f'dan l-Att imsejha "il-Lista ta' Sotto-agenzi", li jkun fiha l-ismijiet ta' dawk il-persuni, l-ismijiet ta' kumpanniji awtorizzati li jahtu u jirreġistraw lil dawk il-persuni bhala sotto-agenzi fl-assigurazzjoni, il-klassi jew klassijiet ta' kummerċ fit-tul jew il-grupp jew gruppi ta' klassijiet ta' kummerċ generali li jkunu se jitmexxew minn dawk il-persuni taht il-hatra rispettiva taghhom ta' sotto-agenzija u dawk il-partikolaritajiet l-oħra li l-Awtorita' Kompetenti tista' tistabbilixxi, minn żmien ghal żmien, b'Direttiva dwar Intermedjarji fl-Assigurazzjoni maghmula għall-finijiet ta' dan l-artikolu, tal-persuni kollha li għandhom il-jedd li jkunu iskritti fiha taht dan l-artikolu.

(2) Ikun id-dmir ta' kumpannija awtorizzata li tagħmel l-iskrizzjoni ma' l-Awtorita' Kompetenti fil-Lista ta' Sotto-agenzi ta' kull persuna rreġistrata minnha bhala sotto-agenzi fl-assigurazzjoni fir-Registru ta' Kumpanniji għal Sotto-agenzi taht l-artikolu 33 ta' dan l-Att.

(3) Ma' l-ghoti ta' applikazzjoni għal iskrizzjoni taht l-artikolu 33 ta' dan l-Att, l-Awtorita' Kompetenti għandha, dwar persuna reġistrata minn kumpannija li tagħmel l-applikazzjoni, toħroġ lil dik il-kumpannija ċertifikat ta' iskrizzjoni fil-forma u b'dak il-mod li jidhrilha xieraq li juri l-iskrizzjoni ta' dik il-persuna fil-Lista tas-Sotto-agenzi.

(4) Meta persuna iskritta kif intqal qabel tmexxi attivitajiet ta' sotto-agenzija fl-assigurazzjoni minn post ta' negozju jew minn xi post iehor, il-persuna għandha tqiegħed għall-wiri f'pożizzjoni prominenti f'dak il-post, f'parti minnu fejn il-pubbliku jkollu aċċess, iċ-ċertifikat ta' iskrizzjoni mahruġ mill-Awtorita' Kompetenti taht dan l-artikolu jew kopja uffijjali tiegħu.

Restrizzjoni ta'
persuni biex
imexxu attivitajiet
ta' sotto-agenzi fl-
assigurazzjoni.

32. Ebda persuna ma għandha taġixxi bhala sotto-agenzi fl-assigurazzjoni u tmexxi, jew tipprova tmexxi f'Malta attivitajiet ta' sotto-agenzija fl-assigurazzjoni kemm-il darba dik il-persuna ma tkunx mahtura, reġistrata u iskritta skond id-dispożizzjonijiet ta' dan l-Att.

Hatra, reġistrazz-
joni u iskrizzjoni
ta' sotto-agenzi
fl-assigurazzjoni.

33. (1) Bla hsara għad-dispożizzjonijiet ta' dan l-Att, kull kumpannija awtorizzata li tkun tixtieq tahtar persuna biex taġixxi f'isimha bhala sotto-agenzi fl-assigurazzjoni għandha, taht dan l-artikolu, tahtar u tirreġistra fir-Registru ta' Kumpannija għal Sotto-agenzi tal-kumpannija u tagħmel l-iskrizzjoni ma' l-Awtorita' Kompetenti fil-Lista ta' Sotto-agenzi, ta' persuna jew persuni biex jaġixxu f'isimha bhala sotto-agenzi fl-assigurazzjoni u biex imexxu f'Malta attivitajiet ta' sotto-agenzija fl-assigurazzjoni f'dik il-klassi jew

f'dawk il-klassijiet ta' kummerè fit-tul jew il-grupp jew gruppi ta' klassijiet ta' kummerè generali speċifikati fil-hatriet tas-sotto-aġenzija rispettivi; u, meta persuna ma tkunx individwu, dik il-persuna għandha hi nnifisha jkollha individwu li jissodisfa l-htigiet tas-subartikolu (1) ta' artikolu 30 ta' dan l-Att:

Izda kumpannija hija ristretta milli tahtar u tirreġistra fir-Registru ta' Kumpannija għal Sotto-aġenti tal-kumpannija persuna li tkun -

(a) persuna reġistrata fir-Registru tal-*Brokers* taht l-artikolu 13 ta' dan l-Att;

(b) kumpannija iskritta fil-Lista tal-*Brokers* taht dak l-artikolu;

(c) kumpannija awtorizzata taht l-Att ta' l-1996 dwar il-Kummerè ta' l-Assigurazzjoni -

(i) biex tmexxi kummerè ta' l-assigurazzjoni;

(ii) biex taġixxi bhala aġent fl-assigurazzjoni;

(iii) biex taġixxi ta' *manager* fl-assigurazzjoni:

Izda wkoll kumpannija hi projbita milli tahtar lil xi persuna biex taġixxi f'isimha bhala sotto-aġenti fl-assigurazzjoni u li tmexxi f'Malta attivitajiet ta' sotto-aġenzija fl-assigurazzjoni li jaqghu taht il-Grupp 4.

(2) Meta kumpannija awtorizzata tahtar u tirreġistra fir-Registru ta' Kumpannija għal Sotto-aġenti tal-kumpannija persuna li ma tkunx individwu, u dik il-persuna tmexxi attivitajiet ta' sotto-aġenzija fl-assigurazzjoni minn post ta' negozju wiehed, jew iktar, dik il-persuna għandha tiżgura li l-attivitajiet ta' sotto-aġenzija fl-assigurazzjoni li hekk jitmexxew minnha minn kull post bhal dak tan-negozju jitmexxew biss minn individwu li jissodisfa l-htigiet tas-subartikolu (1) ta' l-artikolu 30 ta' dan l-Att.

(3) Bla hsara għas-subartokoli (4) sa (6) ta' dan l-artikolu persuna tista' tipprova u tikseb taht dan l-artikolu hatra u reġistrazzjoni fir-Registru ta' Kumpannija għal-Sotto-aġenti ta' xi kumpannija awtorizzata, biex tmexxi f'isem dik il-kumpannija attivitajiet ta' sotto-aġenzija fl-assigurazzjoni.

(4) Persuna li tkun tixtieq tikseb hatra u reġistrazzjoni fir-Registru ta' Kumpannija għal Sotto-aġenti ta' kumpannija awtorizzata biex tmexxi attivitajiet ta' sotto-aġenzija fl-assigurazzjoni -

(a) dwar kummerè fit-tul, tista' tikseb hatra u reġistrazzjoni fir-Registru ta' Kumpannija għal Sotto-aġenti ta' mhux iżjed minn żewġ kumpanniji awtorizzati li jmexxu kummerè fit-tul;

(b) dwar kummerè generali, tista' tikseb hatra u reġistrazzjoni fir-Registru ta' Kumpannija għal Sotto-aġenti ta' mhux iżjed minn żewġ kumpanniji awtorizzati li jmexxu kummerè generali.

(5) Meta persuna tkun tixtieq tikseb hatra u reġistrazzjoni fir-Registru ta' Kumpannija għal Sotto-aġenti ta' iktar minn kumpannija wahda awtorizzata li tmexxi kummerċ fit-tul, u meta xi klassi ta' kummerċ fit-tul li jitmexxa mill-kumpanniji konċernati jkun ta' l-istess xorta, dik il-persuna għandha, dwar dik il-klassi ta' kummerċ, tipprova u tikseb hatra u reġistrazzjoni biex tmexxi attivittajiet ta' sotto-aġenzija fl-assigurazzjoni dwar dik ix-xorta ta' kummerċ biss fir-Registru ta' Kumpannija għal Sott-aġenti ta' wahda mill-kumpanniji konċernati.

(6) Meta persuna tkun tixtieq tikseb hatra u reġistrazzjoni fir-Registru ta' Kumpannija għal Sotto-aġenti ta' iktar minn kumpannija wahda awtorizzata li tmexxi kummerċ ġenerali, u meta xi grupp ta' klassijiet ta' kummerċ ġenerali li jitmexxa mill-kumpanniji konċernati jkun ta' l-istess xorta, dik il-persuna għandha, dwar dak il-grupp ta' klassijiet ta' kummerċ, tipprova u tikseb hatra u reġistrazzjoni biex tmexxi attivittajiet ta' sotto-aġenzija fl-assigurazzjoni dwar dak il-grupp ta' klassijiet ta' kummerċ biss fir-Registru ta' Kumpannija għal Sotto-aġenti ta' wahda mill-kumpanniji konċernati.

(7) Ebda persuna li tkun impjegat ta' kumpannija awtorizzata ma għandha, minhabba biss il-fatt li tkun impjegat mal-kumpannija, tehtieg reġistrazzjoni fir-Registru ta' Kumpannija għal Sotto-aġenti taht dan l-artikolu hlief fejn dik il-persuna tmexxi attivittajiet ta' sotto-aġenzija fl-assigurazzjoni f'isem il-kumpannija f'post jew f'postijiet li ma jkunux post jew postijiet tan-negozju tal-kumpannija.

(8) Meta l-Awtorita' Kompetenti tilqa' applikazzjoni għall-iskrizzjoni taht dan l-artikolu, hija għandha tohrog lill-applikant konċernat ċertifikat ta' iskrizzjoni fl-għamla u bil-mod li tqis li jkun xieraq hekk li jkun prova tal-persuna reġistrata fir-Registru ta' Kumpannija għal Sotto-aġenti ta' l-applikant fil-Lista ta' Sotto-aġenti.

(9) Bla hsara għad-dispożizzjonijiet ta' dan l-Att, l-Awtorita' Kompetenti tista' tissoġġetta l-iskrizzjoni li tkun saret taht dan l-artikolu għal dawk il-kundizzjonijiet li tista' minn żmien għal żmien tqis li jkunu xierqa li timponi.

(10) Kumpannija awtorizzata tkun f'kull żmien responsabbli għal kull għemil jew nuqqas ta' għemil tas-sotto-aġenti fl-assigurazzjoni reġistrati tagħha kemm-il darba dak l-egħmil jew nuqqas ikun għemil jew nuqqas li għandu x'jaqsam ma' kuntratt ta' assigurazzjoni mahruġ mill-kumpannija jew offrut f'isimha permezz tas-servizzi ta' dawk is-sotto-aġenti fl-assigurazzjoni. Għall-finijiet ta' dan is-subartikolu, kull referenza għal sotto-aġenti fl-assigurazzjoni reġistrati għandha tinkludi referenza għal sotto-aġenti fl-assigurazzjoni reġistrati kemm passati kif ukoll preżenti.

(11) Minkejja kull dispożizzjoni oħra ta' dan l-Att, għall-finijiet ta' dan l-artikolu "kumpannija awtorizzata" tinkludi membru individwali ta' assoċjazzjoni ta' *underwriters* li mexxu kummerċ ta' assigurazzjoni f'Malta permezz ta' aġent ta' assigurazzjoni.

Thassir ta' ismijiet mir-registri ta' kumpanniji ghal sotto-agenti.

34. Bla hsara ghad-dispozizzjonijiet ta' l-artikolu 35 ta' dan l-Att u ghall-pattijiet u kondizzjonijiet ta' hatra ta' sotto-agenzija fl-assigurazzjoni rilevanti, f'kull żmien u ghal kull raġuni tkun li tkun -

(a) kumpannija awtorizzata tista' thassar mir-Registru ta' Kumpannija ghal Sotto-agenti tal-kumpannija l-isem ta' persuna li tkun registrata fir-Registru tal-kumpannija;

(b) persuna registrata fir-Registru ta' Kumpannija ghal Sotto-agent ta' kumpannija awtorizzata tista' tapplika bil-miktub lill-kumpannija koncernata u titlob lill-kumpannija li thassarlu ismu mir-Registru ta' Kumpannija ghal Sotto-agenti tal-kumpannija.

Avviż ta' thassir ta' ismijiet mir-registri ta' kumpanniji ghal sotto-agenti.

35. (1) Meta kumpannija awtorizzata tagħzel li thassar l-isem ta' persuna mir-Registru ta' Kumpannija ghal Sotto-agenti tal-kumpannija, il-kumpannija ghandha minnufih tavża bil-miktub lill-persuna koncernata u lill-Awtorita' Kompetenti fejn tispeċifika d-data li fiha tagħzel li thassar l-isem ta' dik il-persuna mir-Registru.

(2) Meta kumpannija awtorizzata thassar l-isem ta' persuna mir-Registru ta' Kumpannija ghal Sotto-agenti tal-kumpannija minhabba li l-persuna ma tkunx xierqa jew idoneja jew minhabba li l-persuna tkun aġixxiet b'mod frodulenti, jew b'diżonestà, jew b'dak il-mod li tintilef fiha l-fiducja, il-kumpannija ghandha tavża bil-miktub lill-Awtorita' Kompetenti bir-raġunijiet ghalix ghamlet hekk.

(3) Malli tirċievi avviż minghand kumpannija awtorizzata li dik il-kumpannija tkun għażlet li thassar l-isem ta' persuna mir-Registru ta' Kumpannija ghal Sotto-agenti tal-kumpannija, l-Awtorita' Kompetenti ghandha kemm jista' jkun malajr tikkonferma bil-miktub lill-kumpannija li isem dik il-persuna, safejn jirreferi ghal dik il-kumpannija, ghandu jithassar jew ikun gie mhassar mil-Lista ta' Sotto-agenti mid-data speċifikata fl-avviż tal-kumpannija.

(4) Bla hsara ghal kull azzjoni li l-Awtorita' Kompetenti jidhrilha xierqa tiehu taht dan l-Att jew taht xi ligi oħra, meta l-Awtorita' Kompetenti thassar l-isem ta' persuna mil-Lista ta' Sotto-agenti ghal raġunijiet speċifikati fis-subartikolu (2) ta' dan l-artikolu, l-Awtorita' Kompetenti tista' tagħti pubbliċita għat-thassir ta' dak l-isem mil-Lista ta' Sotto-agenti, u -

(a) jekk isem dik il-persuna ikun registrat fir-Registru ta' Kumpannija ghal Sotto-agenti ta' xi kumpannija oħra, l-Awtorita' Kompetenti ghandha wkoll minnufih tavża bil-miktub lil dik il-kumpannija l-oħra u tordnalha li thassar l-isem ta' dik il-persuna mir-Registru ta' Kumpannija ghal Sotto-agenti ta' dik il-kumpannija minnufih u tagħti lill-kumpannija r-raġunijiet għal dik l-ordni;

(b) jekk l-Awtorita' Kompetenti tagħzel li tagħti pubbliċita għat-thassir ta' dak l-isem mil-Lista ta' Sotto-agenti, l-Awtorita' Kompetenti ghandha tippubblika avviż għall-inqas f'żewġ gazzetti lokali li johorġu kuljum li minnhom waħda tiġi pubblikata bil-Malti u l-oħra bl-Ingliż; u t-test ta' l-avviż għandhu jkun bl-Malti fil-gazzetta bil-Malti u bl-Ingliż fil-gazzetta bl-Ingliż.

(5) L-Awtorita' Kompetenti jkollha s-setgħa tordna li - ispejjeż kollha li jsiru bil-pubblikazzjoni ta' avviż skond ma hemm f'dan l-artikolu, jew ta' parti minnhom hekk kif tista' tqis li jkun xieraq, għandhom jithallsu mill-persuna konċernata; u kull ammont hekk dovut għandu jingabar mill-Awtorita' Kompetenti bl-istess mod bħalma tingabar penali amministrattiva li tigi imposta taht dan l-Att.

(6) Meta kumpannija awtorizzata tirċievi applikazzjoni bil-miktub minghand persuna registrata fir-Registru ta' Kumpannija għal Sotto-aġenti tal-kumpannija li tkun qegħda teħtieg lill-kumpannija li thassar isem dik il-persuna mir-Registru ta' Kumpannija għal Sotto-aġenti tal-kumpannija, il-kumpannija għandha minghajr ebda dewmien thassar isem dik il-persuna mir-Registru ta' Kumpannija għal Sotto-aġenti tal-kumpannija filwaqt li tavża bil-miktub lill-persuna konċernata u lill-Awtorita' Kompetenti billi wkoll tispeċifika d-data meta tagħzel li thassar isem dik il-persuna mir-Registru.

(7) Meta, wara li ssir applikazzjoni lil kumpannija awtorizzata taht is-subartikolu (6) ta' dan l-artikolu, il-kumpannija tirrifjuta, jew indebitament iġġebbed il-proċess, li thassar isem il-persuna mir-Registru ta' Kumpannija għal Sotto-aġenti tal-kumpannija, il-persuna konċernata tista' tirreferi l-kwistjoni lill-Awtorita' Kompetenti u l-Awtorita' Kompetenti għandha tohroġ bil-miktub lill-kumpannija konċernata dawk id-direttivi li tqis xierqa biex iġġieghel lill-kumpannija li tghaġġel il-proċess ta' thassar ta' l-isem ta' dik il-persuna mir-Registru ta' Kumpannija għal Sotto-aġenti tal-kumpannija.

(8) Malli jingħata avviż mill-Awtorita' Kompetenti lil kumpannija awtorizzata li isem persuna registrata fir-Registru ta' Kumpannija għal Sotto-aġenti tal-kumpannija jkun thassar mil-Lista ta' Sotto-aġenti, il-kumpannija konċernata għandha minnufih tagħti lura lill-Awtorita' Kompetenti ċ-ċertifikat ta' iskrizzjoni dwar dik il-persuna, u kull kopja uffijċjali li jkollu ta' dak iċ-ċertifikat.

Tharis ta' l-interess
pubbliku jew interest
iehor.

36. Minkejja kull dispożizzjoni ta' dan l-Att, l-Awtorita' Kompetenti tista', f'kull żmien, minhabba f'nuqqas ta' idoneita' jew impropjeta' jew tat-tharis ta' l-interess pubbliku -

(a) tirrifjuta l-iskrizzjoni ta' persuna fuq il-Lista ta' Sotto-aġenti;

(b) li thassar l-isem ta' persuna mil-Lista ta' Sotto-aġenti:

Iżda f'kull każ, l-Awtorita' Kompetenti għandha tavża lill-kumpannija konċernata bil-miktub bir-raġunijiet għaliex għamlet hekk.

Restituzzjoni ta'
isem imhassar
mil-Lista ta'
Sotto-aġenti.

37. Meta skond l-artikolu 34 ta' dan l-Att l-isem ta' persuna jkun thassar mil-Lista tas-Sotto-aġenti -

(a) għal raġunijiet li jinsabu fis-subartikolu (2) ta' dak l-artikolu, l-isem ta' dik il-persuna għandu, ma' l-applikazzjoni ta' kumpannija awtorizzata, jerga' jkun iskritt fil-Lista tas-Sotto-aġenti biss fuq ordni tat-Tribunal jew liberazzjoni minn akkużi ta' reat taht dak is-subartikolu minn xi qorti;

(b) għal raġunijiet li ma jkunux dawk li jinsabu fis-subartikolu (2) ta' dak l-artikolu, l-isem ta' dik il-persuna jista', ma' l-applikazzjoni minn kumpannija awtorizzata, jerga' ikun iskritt fil-Lista tas-Sotto-agenti.

DISPOŻIZZJONIJIET ĠENERALI

Kooperazzjoni
fi dmirijiet ta'
sorveljanza u
skambju ta'
informazzjoni.

38. (1) Fuq il-bażi ta' ftehim internazzjonali, jew fuq ftehim ta' reċiproċità, l-Awtorita' Kompetenti tista' taqşam l-informazzjoni u tikkoopera fid-dmirijiet ta' sorveljanza tagħha ma' awtoritajiet regolatorji barranin ohra -

(a) fil-każ ta' kumpannija iskritta, jew fergħa ta' kumpannija iskritta, skond il-każ, li tkun qed tmexxi kummerċ ta' *broking* fl-assigurazzjoni f'Malta jew minn Malta u li s-sid tagħha jkun għal kollox jew f'parti persuna barranija; jew

(b) fil-każ ta' kumpannija iskritta li tkun kumpannija lokali, li tkun qed tmexxi kummerċ ta' *broking* fl-assigurazzjoni f'pajjiz jew minn pajjiz barra minn Malta li s-sid tagħha jkun għal kollox jew f'parti residenti Malti.

(2) Għandu jkun hemm laqgħat li jsiru bejn kumpannija awtorizzata u l-Awtorita' Kompetenti jew bejn kumpannija iskritta, l-uditor approvat tagħha u l-Awtorita' Kompetenti fuq bażi bilaterali jew bażi trilaterali skond kif ikunu jiġġustifikaw iċ-ċirkostanzi. Dawn il-laqgħat jistgħu jiġu msejha minn kwalunkwe waħda mill-partijiet ikkonċernati iżda għandhom dejjem ikunu preseduti mill-Awtorita' Kompetenti.

Konfidenzjalita'.

39. (1) Ebda haġa f'dan l-Att ma tawtorizza lill-Awtorita' Kompetenti biex tinvestiga jew iġġieghel li ssir investigazzjoni f'kumpannija iskritta fl-affarijiet ta' klijent individwali ta' kumpannija iskritta hliet sabiex jiġi assigurat li jkun hemm tharis tad-dispożizzjonijiet ta' dan l-Att.

(2) Ebda persuna, inklużi uffiċjali jew agenti ta' l-imghoddi jew tal-preżent ta' kumpannija iskritta, ma għandha tikxef xi informazzjoni dwar l-affarijiet ta' kumpannija iskritta jew ta' klijent ta' kumpannija iskritta li hija tkun kisbet fil-qadi tad-dmirijiet tagħha jew fl-eżerċizzju tal-funzjonijiet tagħha skond dan l-Att hliet -

(a) meta tkun awtorizzata biex tagħmel hekk skond xi waħda mid-dispożizzjonijiet ta' dan l-Att;

(b) għall-qadi tad-dmirijiet tagħha jew għall-eżerċizzju tal-funzjonijiet tagħha;

(ċ) meta tkun meħtieġa biex tagħmel hekk minn xi qorti jew skond xi dispożizzjoni ta' xi liġi.

(3) F'dan l-artikolu, l-espressjoni "agenti", dwar kumpannija iskritta, tfisser u tinkludi l-bankiera u l-uditor tal-kumpannija.

(4) Meta uffiċjal jw impjegat ta' kumpannija iskritta, jew ta' persuna iskritta, ikollha għalfajn taħseb li xi attivita' jew attivita' proposta tista' tinvolvi *money laundering*, din tkun obbligata timxi skond ir-regolamenti mahruġa taht l-Att ta' l-1994 kontra *Money Laundering* u skond linji ta' gwida magħmula mill-Awtorita' Kompetenti. It-tħaris tad-dispożizzjonijiet ta' dan is-subartikolu ma jikkostitwix ksur ta' konfidenzjalita'.

Spezzjoni tar-registri u tal-listi.

40. (1) Ir-Registru tal-*Brokers*, il-Lista tal-*Brokers* u l-Lista tas-Sotto- aġenti għandhom ikunu miftuħin biex jispezzjonahom il-pubbliku, mingħajr hlas, fl-uffiċċju ta' l-Awtorita' Kompetenti fil-hinijiet kollha matul il-hinijiet normali tax-xogħol ta' l-Awtorita'.

(2) Kull persuna tista', mal-hlas ta' dak id-dritt li jista' jiġi preskritt, tikseb mingħand l-Awtorita' Kompetenti estratti mir-Registru tal-*Brokers*, mil-Lista tal-*Brokers* u mil-Lista tas-Sotto-aġenti u kopji uffiċjali ta' ċertifikati ta' registrazzjoni jew iskrizzjoni.

(3) Ir-Registru tal-Kumpannija għal Sotto-aġenti għandu jkun miftuħ biex jispezzjonah il-pubbliku, mingħajr hlas, fl-uffiċċju prinċipali tal-kumpannija awtorizzata konċernata matul il-hinijiet normali tax-xogħol tal-kumpannija.

Użu tal-kelma "assigurazzjoni".

41. (1) Bla hsara għad-dispożizzjonijiet li ġejjin ta' dan l-artikolu, hlief bil-permess bil-miktub ta' l-Awtorita' Kompetenti, ebda persuna barra minn -

(a) persuna registrata fir-Registru tal-*Brokers* taht l-artikolu 13 ta' dan l-Att; jew

(b) kumpannija iskritta fil-Lista tal-*Brokers* taht dak l-artikolu; jew

(ċ) kumpannija awtorizzata taht l-Att ta' l-1996 dwar il-Kummerċ ta' l-Assigurazzjoni; jew

(d) persuna li jkollha kwalifiki ta' assicurazzjoni minn istitut ta' reputazzjoni magħruf għal dak l-ghan mill-Awtorita' Kompetenti,

ma għandha tuża l-kelma "assigurazzjoni" bħala parti minn isimha jew bħala d-deskrizzjoni jew titlu tagħha jew tagħmel xi użu bħal dak fuq xi ittra, karta, f'xi avviz jew reklam, jew b'xi mod ieħor ikun li jkun.

(2) Kull kumpannija barranija iskritta jew awtorizzata kif intqal qabel tista' tuża l-isem użat fil-pajjiz fejn tkun registrata, inkorporata jew kostitwita hlief li, fejn ikun hemm riskju li l-użu ta' dak l-isem jista' jqarraq, dik il-kumpannija għandha żżid ma' isimha dawk il-partikolaritajiet spjegattivi li tordna l-Awtorita' Kompetenti.

(3) L-Awtorita' Kompetenti tista', b'Direttiva dwar Intermedjarji fl-Assigurazzjoni magħmula għall-fini ta' dan l-artikolu, tistabbilixxi liema persuni, barra mill-persuni msemmija fis-subartikolu ta' qabel ta' dan l-artikolu, jistgħu jingħataw permess biex jużaw il-kelma "assigurazzjoni" bħala parti minn isimhom.

(4) Għall-finijiet ta' dan l-artikolu, l-espressjoni "assigurazzjoni" tinkludi riassigurazzjoni, *assurance* u *reassurance* u kull derivattivi tagħhom jew kliem iehor li jistgħu juru jew jimplikaw li juru t-tmexxija ta' kummerċ ta' assicurazzjoni jew kummerċ ta' *broking* fl-assigurazzjoni jew it-tmexxija ta' attivitajiet intermedjarji fl-assigurazzjoni jew it-tmexxija ta' dak il-kummerċ jew it-tmexxija ta' dawk l-attivitajiet b'xi lingwa fid-deskrizzjoni jew fit-titolu li tahtu persuna tkun qed tmexxi dak il-kummerċ jew tmexxi dawk l-attivitajiet.

Notifika ta' avvizi,
eċċ.

42. Avviż jew dokument iehor li għandu jingħata jew ikun notifikat taht dan l-Att jew xi regoli jew regolamenti magħmula bis-saħħa tiegħu għandu jitqies li ngħata jew gie notifikat b'mod xieraq lil persuna jekk -

(a) ikun konsenjat lilha; jew

(b) ikun thalla fl-indirizz mogħti minnha lill-Awtorita' Kompetenti, jew fl-indirizz l-aħħar magħruf tagħha; jew

(c) ikun intbagħtilha bil-posta jew bil-*fax* f'xi wiehed mill-indirizzi hawn fuq imsemmija; jew

(d) fil-każ ta' korp ta' persuni, sew jekk korporat jew mhux korporat, ikun ingħata jew gie notifikat b'xi mod hawn fuq imsemmi lil direttur, uffiċjal, skrivan jew lir-rappreżentant ta' dak il-korp.

*Underwriting
Agreements.*

43. (1) Bla hsara għas-subartikoli li ġejjin ta' dan l-artikolu, kumpannija li tkun iskritta taht l-artikolu 13 ta' dan l-Att tista' tagħmel jew tikkuntratta kull *underwriting agreement* dwar klassijiet ta' kummerċ ġenerali ma' kull kumpannija awtorizzata.

(2) Minkejja kull dispożizzjoni oħra ta' dan l-Att, dwar assoċjazzjoni ta' *underwriters*, kumpannija iskritta bħalma hu msemmi hawn aktar qabel tista' tagħmel jew tikkuntratta kull *underwriting agreement* biss ma' kull *underwriting member* ta' assoċjazzjoni ta' *underwriters* li jkun qed imexxi kummerċ ta' assicurazzjoni f'Malta permezz ta' agent ta' l-assigurazzjoni.

(3) Kull kumpannija iskritta kif imsemmi qabel għandha tirreġistra għand l-Awtorita' Kompetenti fl-għamla u bil-mod li l-Awtorita' Kompetenti tista', permezz ta' Direttiva dwar Intermedjarji fl-Assigurazzjoni magħmula għall-finijiet ta' dan l-artikolu tistabbilixxi, kull *underwriting agreement* magħmul jew ikkuntrattat taht dan l-artikolu.

(4) Ebda kummerċ ta' assicurazzjoni ma għandu jiġi aċċettat taht xi *underwriting agreement* kemm-il darba l-*underwriting agreement* ma jkunx gie debitament registrat kif imsemmi qabel.

(5) L-Awtorita' Kompetenti għandha tiddeċiedi dwar applikazzjoni għal registrazzjoni ta' xi *underwriting agreement* taht dan l-artikolu fi żmien xahar minn meta tirċievi l-informazzjoni meħtieġa li tingħata skond id-Direttiva dwar Intermedjarji fl-Assigurazzjoni; u jekk l-Awtorita' tirrifjuta li tirreġistra l-*agreement* hija għandha tgħarraf lill-applikant bil-miktub ir-raġunijiet għar-rifjut.

(6) Bla hsara ghad-dispożizzjonijiet ta' dan l-Att, l-Awtorita' Kompetenti tista' tissoġġetta r-registrazzjoni ta' kull *underwriting agreement* magħmul taht dan l-artikolu għal dawk il-kondizzjonijiet li tista' minn żmien għal żmien tqis xierqa li timponi.

(7) Għall-ghanijiet ta' dan l-artikolu "*underwriting agreement*", dwar il-kummerċ ta' l-assigurazzjoni, tfisser ftehim bejn kumpannija awtorizzata u kumpannija iskritta taht l-artikolu 13 ta' dan l-Att li bih il-kumpannija iskritta tista', skond il-provedimenti tiegħu, taċċetta riskji sitwati f'Malta f'isem il-kumpannija awtorizzata; u, f'dan il-kuntest, kull ftehim iehor, b'kull isem li jista' jisejjah bih, li jkollu ghanijiet u finijiet simili għal *underwriting agreement*, għandu jitqies għall-finijiet ta' dan l-artikolu li jkun *underwriting agreement*.

Tibdil fid-dokumentazzjoni.

44. (1) Kull kumpannija iskritta għandha tavża bil-miktub lill-Awtorita' Kompetenti b'kull tibdil materjali fid-dokumentazzjoni provduta jew meħtieġa li tkun provduta b'dan l-Att jew tahtu jew b'xi regoli jew regolamenti magħmula bis-sahħa tiegħu jew b'xi Direttiva dwar Intermedjarji fl-Assigurazzjoni, malli ssir taf b'dak it-tibdil.

(2) Bla hsara għall-artikolu 49 ta' dan l-Att safejn jirreferi għall-artikolu 38 ta' l-Att ta' l-1996 dwar il-Kummerċ ta' l-Assigurazzjoni, kull kumpannija iskritta li tkun kumpannija lokali għandha, qabel ma tagħmel xi żieda jew tibdil fil-memorandum jew fl-istatut ta' assoċjazzjoni jew f'xi att iehor li jikkostitwixxi l-kumpannija tissottometti bil-miktub lill-Awtorita' Kompetenti partikolaritajiet taż-żieda jew tibdil propost għall-kunsens tagħha bil-quddiem; u ebda żieda jew tibdil bħal dak ma għandu jsir jew jiġi registrat jew jibda jsehħ, sew jekk ikun registrat jew le, kemm-il darba u sakemm l-Awtorita' Kompetenti ma tkunx tat il-kunsens tagħha bil-miktub.

Appelli.
Att Nru. XV
ta' l-1994

45. (1) F'dan l-Att, "it-Tribunal għal Servizzi Finanzjarji" u "it-Tribunal" iffisru it-Tribunal imwaqqaf skond l-artikolu 10 ta' l-Att ta' l-1994 dwar il-Kummerċ Bankarju:

Izda għal finijiet ta' proċeduri li johorġu minn dan l-Att il-proviso għas-subartikolu (1) ta' l-artikolu 57 ta' l-Att ta' 1996 dwar il-Kummerċ ta' l-Assigurazzjoni għandu japplika;

Izda ukoll li, għall-finijiet ta' dawk il-proċeduri, id-dispożizzjonijiet ta' l-artikolu 10 ta' l-Att ta' l-1994 dwar il-Kummerċ Bankarju għandhom, hlief sa fejn huma ikompatibbli mad-dispożizzjonijiet ta' dan l-artikolu, japplikaw.

(2) Bla hsara għad-dispożizzjonijiet ta' dan l-artikolu, kull persuna jew kumpannija li, thossha aggravata b'deċiżjoni ta' l-Awtorita' Kompetenti -

(a) li tirrifjuta li tirregistra jew tiskrivi applikant taht l-artikolu 13 jew 36 ta' dan l-Att;

(b) li timponi xi kondizzjoni fuq, jew sussegwenti għal, registrazzjoni u iskrizzjoni taht l-artikolu 13 ta' dan l-Att;

(c) li thassar l-isem ta' persuna mir-Registru tal-*Brokers* jew l-isem ta' kumpannija mil-Lista tal-*Brokers* taht l-artikolu 16 ta' dan l-Att;

(d) li tirrifjuta li tirrestitwixxi l-isem ta' persuna fir-Registru tal-*Brokers* jew l-isem ta' kumpannija fil-Lista tal-*Brokers* taht is-subartikolu (2) ta' l-artikolu 18 ta' dan l-Att;

(e) li thassar l-isem ta' persuna mil-Lista ta' Sotto-agenti taht l-artikolu 35 ta' dan l-Att;

(f) li tehtieg kumpannija awtorizzata li thassar l-isem ta' persuna mir-Registru ta' Kumpannija ghal Sotto-agenti ta' xi kumpannija taht l-artikolu 36 ta' dan l-Att;

(g) li tirrifjuta li tirregistra xi *underwriting agreement* taht l-artikolu 43 ta' dan l-Att;

(h) li timponi penali amministrattiva dwar infrazzjonijiet kif jista' jiggi preskritt taht l-artikolu 3 ta' dan l-Att;

tista' tappella kontra d-deċiżjoni lit-Tribunal ghal Servizzi Finanzjarji li jkollu l-kompetenza esklużiva li jisma' appelli fuq il-hwejjeġ inniżżlin f'dan is-subartikolu.

(3) Appell taht dan l-artikolu jista' jsir biss fuq il-bazi ta' xi waħda minn dawn li ġejjin-

(a) l-Awtorita' Kompetenti tkun applikat hażin xi waħda mid-dispożizzjonijiet ta' dan l-Att; jew

(b) id-deċiżjoni ta' l-Awtorita' Kompetenti tikkostitwixxi abbuż ta' diskrezzjoni jew li tkun manifestament ingusta, iżda d-diskrezzjoni ta' l-Awtorita' Kompetenti ma tistax, ladarba tkun giet eżerċitata b'mod xieraq, tkun mistharrġa mit-Tribunal.

(4) Appell magħmul taht dan l-artikolu ma għandux jissospendi l-eżekuzzjoni ta' xi deċiżjoni li minnha jkun sar l-appell.

Esklużjoni ta' responsabbiltà.

46. L-Awtorita' Kompetenti u kull membru, uffiċjal jew impjegat ta' l-Awtorita' Kompetenti, u kull persuna maħtura biex taqdi funzjoni taht dan l-Att jew xi regoli jew regolamenti magħmula bis-saħħa tiegħu ma jkunux responsabbli għal xi danni dwar xi haġa li tkun saret jew li naqset milli ssir fil-qadi jew f'dak li jidher li jkun il-qadi ta' xi funzjonijiet taht dan l-Att, jew xi regoli jew regolamenti kif intqal qabel, kemm-il darba l-egħmil jew in-nuqqas ma jintwerix li jkun sar jew naqas milli jsir, skond il-każ, b'*mala fede*.

Reati.

47. (1) Kull persuna -

(a) li tikser jew tonqos li thares xi dispożizzjonijiet ta' dan l-Att, jew ta' l-artikolu 29, 30 jew 38 ta' l-Att ta' l-1996 dwar il-Kummerċ ta' l-Assigurazzjoni kif applikabbli skond l-artikolu 49 ta' dan l-Att;

(b) li tikser jew tonqos li thares xi regoli jew regolamenti magħmula taht dan l-Att; barra minn regoli jew regolamenti li dwarhom ikunu preskritti penaltajiet amministrattivi taht il-paragrafu (d) fis-subartikolu (3) ta' l-artikolu 3 ta' dan l-Att;

(ċ) li tikser jew tonqos li thares xi Direttiva dwar Intermedjarji fl-Assigurazzjoni jew xi kondizzjoni ta' registrazzjoni jew iskrizzjoni;

(d) li tonqos li thares xi ordni legittimu jew hteġa legittima ta' l-Awtorita' Kompetenti;

(e) li tonqos li thares xi ordni jew hteġa tat-Tribunal tas-Servizzi Finanzjarji;

(f) li tonqos li thares xi ordni legittimu jew hteġa legittima ta' xi persuna ohra maghmula taht dan l-Att u taht xi regoli jew regolamenti maghmula bis-sahha tieghu;

(g) li minghajr raġuni xierqa tibdel, iżzomm, taħbi, tiddistruggi jew tirrifjuta li tipproduci xi dokument li hu legittimament mehtieg li jigi provdut minn xi persuna taht dan l-Att jew xi regoli jew regolamenti maghmula bis-sahha tieghu,

tkun hatja ta' reat.

(2) Kull persuna li xjentement tipparteċipa fi, jew tipprokura jew tghin jew thajjar l-għemil ta' reat taht is-subartikolu (1) ta' dan l-artikolu tkun hatja ta' reat u tista' tehel l-istess pjeni bhall-awtur tar-reat.

Pieni.

48. (1) Persuna misjuba hatja ta' reat taht id-dispożizzjonijiet ta' l-artikolu 47 ta' dan l-Att tehel, meta tinsab hatja, multa ta' mhux inqas minn mitt lira iżda mhux iżjed minn hamsin elf lira jew prigunerija għal żmien ta' mhux iżjed minn sentejn, jew dik il-multa u prigunerija flimkien.

(2) Ebda proċedimenti għal reat taht dan l-Att jew xi regolament maghmul tahtu, hlief għal infrazzjonijiet li għalihom japplika l-paragrafu (d) tas-subartikolu (3) ta' l-artikolu 3 ta' dan l-Att, ma jistghu jinbdeu minghajr il-kunsens ta' l-Avukat Ġenerali.

(3) Id-dispożizzjonijiet ta' dan l-Att m'għandhomx jolqtu xi proċedimenti kriminali li jistghu jittiehdu taht xi ligi ohra.

Applikazzjoni ta' ċerti artikoli ta' l-Att ta' l-1996 dwar il-Kummerċ ta' l-Assigurazzjoni għal kumpanniji iskritti.

49. (1) L-artikoli 29, 30, 31 u 38 ta' l-Att ta' l-1996 dwar il-Kummerċ ta' l-Assigurazzjoni (f'dan l-artikolu msejjah "l-Att") għandhom japplikaw dwar kumpannija iskritta fil-Lista tal-*Brokers* sugġetti għad-dispożizzjonijiet li ġejjin ta' dan l-artikolu.

(2) L-artikoli 29,30, 31 u 38 ta' l-Att għandhom japplikaw daqslikieku

(a) ir-riferenza għal "kumpannija awtorizzata " kienet riferenza għal "kumpannija iskritta ";

(b) ir-riferenza għal "Awtorita' Kompetenti " kienet riferenza għall-Awtorita' Kompetenti taht dan l-Att;

(ċ) ir-riferenza għal "kummerċ ta' l-assigurazzjoni" kienet riferenza għal "kummerċ ta' *broking* fl-assigurazzjoni";

(d) ir-riferenza ghal "Direttiva dwar l-Assigurazzjoni" kienet riferenza ghal "Direttiva dwar Intermedjarji fl-Assigurazzjoni";

(e) ir-riferenza ghal "kumpannija li l-uffiċċju prinċipali tagħha qiegħed f'pajjiż barra minn Malta " kienet riferenza ghal "kumpannija barranija .

Applikazzjoni ta'
l-Att dwar il-Kontroll
fuq il-Kambju.
Kap. 233.

50. L-Att dwar il-Kontroll fuq il-Kambju ma għandux japplika għal kummerċ ta' *broking* fl-assigurazzjoni li jitmexxa minn kumpannija iskritta ma' klient li hu persuna mhux residenti f' Malta għall-finijiet ta' l-imsemmi Att.

Riżervi.

51. (1) Kull liċenzja mahruġa jew imġedda jew azzjoni oħra tkun li tkun li tkun ittiedet jew inbdiet taht l-Att ta' l-1981 dwar l-Impriza ta' l-Assigurazzjoni (f'dan l-artikolu msejjah "l-Att") qabel ma thassar bl-Att ta' l-1996 dwar il-Kummerċ ta' l-Assigurazzjoni safejn japplika għal *brokers* fl-assigurazzjoni u bejjiegh ta' assigurazzjoni, għandhom ikomplu japplikaw u jibqgħu validi, daqslikieku dik il-liċenzja kienet ċertifikat ta' iskrizzjoni mahruġ jew jekk dik l-azzjoni l-oħra kienet mehuda jew mibdija taht dan l-Att:

(2) Kull persuna jew kumpannija liċenzjata taht l-Att biex taġixxi bħala sensal ta' assigurazzjoni jew bejjiegh ta' assigurazzjoni għandha, mhux iktar tard minn sitt xhur mid-data tal-bidu fis-sehh ta' dan l-Att ("id-data stabbilita"), tikkonforma mad-dispożizzjonijiet ta' dan l-Att jew inkella tieqaf milli taġixxi bħala sensal ta' assigurazzjoni jew bejjiegh ta' assigurazzjoni.

(3) Meta persuna jew kumpannija tieqaf milli taġixxi bħala intermedjarju fl-assigurazzjoni jew milli tmexxi xi attivitajiet oħra ta' intermedjarji fl-assigurazzjoni minhabba li dik il-persuna jew kumpannija ma kkonformatx, fid-data tal-bidu fis-sehh ta' dan l-Att, mad-dispożizzjonijiet ta' dan l-Att, dik il-persuna jew kumpannija għandha titqies li għamlet applikazzjoni taht l-artikolu 25 ta' dan l-Att biex tieqaf milli taġixxi bħala intermedjarju fl-assigurazzjoni jew li tmexxi kummerċ ta' *broking* fl-assigurazzjoni jew li tmexxi attivitajiet oħra ta' intermedjarju fl-assigurazzjoni.

(4) Meta kumpannija tieqaf milli taġixxi bħala sensal ta' assigurazzjoni għar-raġuni li dik il-kumpannija ma kenitx, fid-data stabbilita, tikkonferma mad-dispożizzjonijiet ta' dan l-Att dik il-kumpannija għandha titqies li tkun għamlet applikazzjoni lill-Awtorita' Kompetenti taht l-artikolu 25 ta' dan l-Att biex tieqaf li tmexxi kummerċ ta' sensal ta' assigurazzjoni u li tkun inghatat permiss mill-Awtorita' Kompetenti taht dak l-artikolu biex tieqaf milli tmexxi dak il-kummerċ taht dawk il-kondizzjonijiet li l-Awtorita' Kompetenti jidhrilha xierqa li timponi.

(5) Għall-fini ta' dan l-artikolu, "liċenzja" tinkludi awtorita', permiss, approvazzjoni u hatra.

(6) Id-dispożizzjonijiet ta' dan l-artikolu m'għandhomx japplikaw għal kumpanniji *offshore* ta' *broking* fl-assigurazzjoni registrati taht l-Att dwar iċ-Ċentru għas-Servizzi Finanzjarji ta' Malta, sa dak iż-żmien li l-Ministru jista' b'Ordni fil-Gazzetta jistabbilixxi.

S K E D A

(Artikolu 2)

INTERMEDJARJI FL-ASSIGURAZZJONI U ATTIVITAJIET TA'
INTERMEDJARJI FL-ASSIGURAZZJONI

Ghall-finijiet tal-paragrafu 1 fit-Tielet kolonna li hemm f'din l-Iskeda, "riskju" tfisser u tinkludi riskju sitwat f'Malta jew riskju sitwat barra minn Malta; u "riskju sitwat barra minn Malta", dwar kuntratt ta' assigurazzjoni, ghandha l-istess tifsir kif moghti lilha bis-subartikolu (1) ta' l-artikolu 2 ta' l-Att ta' l-1996 dwar il-Kummerç ta' l-Assigurazzjoni.

L-Ewwel Kolonna	It-Tieni Kolonna	It-Tielet Kolonna
Intermedjarji fl-Assigurazzjoni Indipendenti	Intermedjarji fl-Assigurazzjoni Dipendenti	Attivitajiet ta' Intermedjarji fl-Assigurazzjoni
Broker fl-assigurazzjoni	Sotto-agent fl-assigurazzjoni	<p>1. Attivitajiet professjonali ta' persuni mnizzlin fl-Ewwel Kolonna ta' din l-Iskeda li, ghal kummissjoni, u b'liberta' assoluta dwar l-għażla taghhom ta' kumpanniji ta' l-assigurazzjoni legittimi, ilaqqgħu flimkien, bil-hsieb ta' assigurazzjoni jew rijassigurazzjoni ta' riskji jew rbiet, persuni li jkunu qed ifittxu assigurazzjoni jew rijassigurazzjoni u kumpanniji ta' l-assigurazzjoni, jagħmlu xogħol preparatorju biex jikkonkludu kuntratti ta' assigurazzjoni jew rijassigurazzjoni u, meta jkun xieraq, jassistu fl-amministrazzjoni u twettiq ta' dawk il-kuntratti, b'mod partikolari fil-każ ta' <i>claim</i>;</p> <p>2. Attivitajiet ta' persuni mnizzlin fit-Tieni Kolonna ta' din l-Iskeda li, ghal kummissjoni, li jagixxu f'isem kumpanniji awtorizzati, fost hwejjeg ohra jagħmlu xogħol introdutturju, jintroduçu kuntratti ta' assigurazzjoni jew jigbru <i>premiums</i>, kemm-il darba ebda obligazzjoni dwar</p>

assigurazzjoni lejn jew min-
naha tal-pubbliku ma tinghata
bhala parti minn dawk l-
attivitajiet.

Ghanijiet u Raġunijiet

L-ghan ta' dan l-Abbozz huwa li jagħmel dispozizzjonijiet godda li jirregolaw ir-registrazzjoni u l-iskrizzjoni ta' *brokers* fl-assigurazzjoni u intermedjarji oħra u attivitajiet ta' intermedjarji fl-assigurazzjoni kif ukoll attivitajiet ta' *brokers* fl-assigurazzjoni f'Malta jew minn Malta, jew f'pajjiż jew minn pajjiż barra minn Malta, minflok dawk li jinsabu fl-Att dwar l-Impriza ta' l-Assigurazzjoni (Kap.290) u l-Att dwar iċ-Centru għas-Servizzi Finanzjarji ta' Malta (Kap. 330), u sabiex jagħmel dispozizzjonijiet għal hwejjeġ anċillari għalihom jew konnessi magħhom.

**INSURANCE BROKERS AND OTHER
INTERMEDIARIES ACT, 1996**

Arrangement of Act

PRELIMINARY

1. Short title and commencement
2. Interpretation

REGULATORY POWERS

3. Powers and duties of the Minister
4. Powers and duties of the Competent Authority

**REGISTRATION OR ENROLMENT FOR CARRYING ON BUSINESS AS
INSURANCE BROKERS**

5. The insurance brokers register
6. Qualifications for registration
7. List of companies carrying on business as insurance brokers
8. General qualifications for enrolment
9. Specific qualifications for enrolment in the case of local companies
10. Specific qualifications for enrolment in the case of foreign companies
11. Registration of persons for carrying on business as insurance brokers
12. Enrolment of companies for carrying on business as insurance brokers
13. Grant of registration or enrolment
14. Certificate of registration or enrolment
15. Opening of branches by enrolled local companies

16. Striking a name off the Brokers Register or the Brokers List
17. Notification of striking of a name off the Brokers Register or the Brokers List
18. Restoration of a name struck off the Brokers Register or the Brokers List

OBLIGATIONS OF ENROLLED COMPANIES

19. Moneys held in a fiduciary capacity
20. Fidelity bonds required of enrolled companies
21. Contracts of insurance relating to risks situated in Malta or to commitments where Malta is the country of the commitment
22. Notification of persons registered in the Brokers Register
23. Submission of audited financial statements
24. Submission of business of insurance broking statements
25. Companies ceasing to carry on business as insurance broker

FINANCIAL YEAR AND AUDITORS

26. Financial year of enrolled companies
27. Appointment, duties and termination of appointment of auditors
28. Communication by auditors etc. with the Competent Authority

REGISTRATION AND ENROLMENT OF INSURANCE SUB-AGENTS

29. The insurance sub-agents company registers
30. Qualifications for registration
31. List of persons carrying out insurance sub-agency activities
32. Restriction on persons for carrying out insurance sub-agency activities
33. Appointment, registration and enrolment of insurance sub-agents
34. Striking names off sub-agents company registers
35. Notification of striking names off sub-agents company registers
36. Protection of the public or other interest
37. Restoration of a name struck off the Sub-agents List

GENERAL PROVISIONS

38. Co-operation in supervisory duties and sharing of information
39. Confidentiality
40. Inspection of the registers and the lists
41. Use of the word "insurance"
42. Service of notices, etc.
43. Underwriting agreements
44. Changes in documentation
45. Appeals
46. Exclusion of liability
47. Offences
48. Penalties
49. Application of certain sections of the Insurance Business Act, 1996 to enrolled companies
50. Application of Exchange Control Act (Cap. 233)
51. Savings

SCHEDULE

Insurance Intermediaries and Insurance Intermediaries Activities

A BILL

entitled

AN ACT to regulate the registration of insurance brokers and other intermediaries and insurance intermediaries activities.

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

PRELIMINARY

Short title
and commencement.

1. (1) This Act may be cited as the Insurance Brokers and Other Intermediaries Act, 1996.

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

Interpretation.

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

“advertisement”, in relation to insurance intermediaries activities, means any form of advertising, whether done verbally or in writing, and, without prejudice to the generality of the foregoing, includes advertising in a publication, the display of notices, signs, labels or showcards, by means of letters, circulars, prospectuses, catalogues, price lists or other documents, by an exhibition of pictures or photographic or cinematographic films, by way of sound broadcasting or television, by the distribution of recordings or in any other manner, and references to the issue of an advertisement shall be construed accordingly;

“affiliated insurance” has the same meaning as is assigned to it by subsection (1) of section 2 of the Insurance Business Act, 1996;

“approved auditor” and “auditor” have the meaning assigned to them by subsection (10) of section 27 of this Act;

“association of underwriters” has the same meaning as is assigned to it by the Insurance Business Act, 1996.

“authorised company” means a company authorised under the Insurance Business Act, 1996 to carry on business of

insurance, other than business of reinsurance or affiliated insurance, and includes an association of underwriters and a person authorised under the said Act to act as an insurance agent of the company;

“body corporate” means an entity having a legal personality distinct from that of its members;

“branch” -

(a) in relation to a local company carrying on business as insurance broker or carrying on other insurance intermediaries activities as may be prescribed, means premises of the company, other than its head office, from which the business of insurance broking or the other insurance intermediaries activities as may be prescribed are carried on; and

(b) in relation to a foreign company carrying on business as insurance broker or carrying on other insurance intermediaries activities as may be prescribed, means premises in Malta of the company from which the business of insurance broking or the other insurance intermediaries activities as may be prescribed are carried on by a person fulfilling the requirements of subsection (2) of section 10 of this Act and having authority to act for the company;

“Brokers List” means the list of companies carrying on business as insurance brokers established and maintained under section 7 of this Act;

“Brokers Register” means the insurance brokers register established and maintained under section 5 of this Act;

“business of insurance” has the same meaning as is assigned to it by subsection (1) of section 2 of the Insurance Business Act, 1996;

“business of insurance broking”, in relation to a registered insurance broker or an enrolled company, means the activities listed in paragraph 1 of the Third Column of the Schedule;

“certificate of enrolment” -

(a) in relation to a company carrying on business as insurance broker, means a certificate issued by the Competent Authority under section 14 of this Act to the

company evidencing enrolment of that company in the Brokers List; and

(b) in relation to a person registered as an insurance sub-agent in the Sub-agents Company Register of any company, means a certificate issued by the Competent Authority under section 33 of this Act to the company enrolling that person evidencing enrolment of that person in the Sub-agents List;

"certificate of registration", in relation to a person registered as an insurance broker, means a certificate issued by the Competent Authority under section 14 of this Act to that person evidencing registration of that person in the Brokers Register;

"class"-

(a) in relation to long term business, means any of the classes specified in the Second Schedule to the Insurance Business Act, 1996; and

(b) in relation to general business, means any of the classes specified in Part I of the Third Schedule to that Act;

"client", in relation to an enrolled company, means a person who contacts, or is contacted by, an enrolled company with a view to obtaining or giving advice on his insurance requirements or entering into a contract of insurance with an insurance company or for whom the enrolled company has arranged a contract of insurance with an insurance company;

"commission", in relation to insurance intermediaries activities, means any pecuniary remuneration paid or payable to insurance intermediaries and includes any other compensation or thing of value whatsoever;

"commitment" and "country of the commitment" have the same meanings as are assigned to them by subsection (1) of section 2 of the Insurance Business Act, 1996;

"company" includes a local company and a foreign company,

"Competent Authority" means the body established under subsection (2) of section 3 of this Act:

"condition" includes obligations and restriction;

“contract of insurance” and “contract” have the same meanings as are assigned to them by subsection (1) of section 2 of the Insurance Business Act, 1996;

“control”, in relation to a body corporate, is the power to determine the financial and operating policies of the body corporate;

“controller”, in relation to a body corporate, is a person who, alone or together with others, exercises control of the body corporate;

“director”, in relation to a company, includes an individual occupying the position of a director of the company, by whatever name he may be called, empowered to carry out substantially the same functions in relation to the direction of the company as those carried out by a director and, in respect of a foreign company, includes a member of a local board, an agent and the person designated as the representative of that company for the purpose of sub-paragraph (ii) of paragraph (c) of subsection (1) of section 10 of this Act;

“enrolled” -

(a) in relation to a company carrying on business as insurance broker, means enrolled in the Brokers List under section 13 of this Act; and

(b) in relation to a person registered as an insurance sub-agent, means enrolled in the Sub-agents List under section 33 of this Act,

and, in each case, “enrolment” shall be construed accordingly;

“financial year” shall be construed in accordance with subsection (4) of section 26 of this Act;

“foreign company” means a company registered, incorporated or constituted outside Malta under the laws of any country provided that such company has complied with the provisions of any law which may from time to time be in force in Malta relating thereto;

“functions” includes responsibilities, powers and duties;

“group” and “group of classes”, in relation to general business, means any group of classes or part classes specified in Part II of the Third Schedule to the Insurance Business Act, 1996;

“insurance broker” means a person carrying on business of insurance broking;

“insurance company”, in relation to an enrolled company, means and includes a company, an association of underwriters or any other undertaking lawfully carrying on business of insurance;

“insurance intermediary” means a person which, by way of business, or in the course of employment, falls within any of the categories listed in the First or Second Column of the Schedule and includes a person providing services ancillary to other insurance intermediaries activities as may be prescribed;

“insurance intermediaries activities” and “activities” mean any of the activities listed in paragraphs 1 and 2 of the Third Column of the Schedule and includes any other activities as may be prescribed;

“Insurance Intermediaries Directive” means a Directive in respect of insurance intermediaries activities issued by the Competent Authority in virtue of subsection (2) of section 4 of this Act;

“insurance sub-agency activities”, in relation to a person registered as an insurance sub-agent, means activities listed in paragraph 2 of the Third Column of the Schedule;

“insurance sub-agent” means a person carrying out insurance sub-agency activities;

Act No XXV
of 1995.

“local company” means a limited liability company constituted in Malta in accordance with the Companies Act, 1995;

“Minister” means the Minister responsible for finance;

Act No XIV
of 1994.

“money laundering” has the same meaning as is assigned to it by the Prevention of Money Laundering Act, 1994;

“officer”, in relation to a company, includes a director, partner, manager or company secretary or any person

effectively acting in such capacity whether formally appointed or not;

“own funds” shall be construed in accordance with an Insurance Intermediaries Directive made for the purpose of this Act;

“prescribed” means prescribed by rules or regulations under this Act;

“qualifying shareholding” means a direct or indirect holding in a company which represents ten per centum or more of the share capital issued by such company or of the voting rights attaching to such share capital or which makes it possible to exercise a significant influence over the management of the company, and “qualifying shareholder” shall be construed accordingly;

“registered” -

(a) in relation to a person registered as an insurance broker under section 13 of this Act, means registered in the Brokers Register; and

(b) in relation to a person registered as an insurance sub-agent under section 33 of this Act, means registered in the Sub-agents Company Register of any one or more companies,

and, in each case, “registration” shall be construed accordingly;

“representative” shall be construed in accordance with section 12 of the Insurance Business Act, 1996;

“risk situated in Malta” has the same meaning as is assigned to it by subsection (1) of section 2 of the Insurance Business Act, 1996;

“Schedule” means the Schedule to this Act; -

“Sub-agents List” means the list of insurance sub-agents registered by authorised companies established and maintained under subsection (1) of section 31 of this Act;

“Sub-agents Company Register” means the insurance sub-agents company register established and maintained by a company under subsection (1) of section 29 of this Act.

(2) In this Act and in any rules or regulations made thereunder, if there is any conflict between the English and the Maltese texts, the English text shall prevail.

REGULATORY POWERS

Powers and
duties
of the
Minister.

3. (1) It shall be the duty of the Minister to exercise the powers conferred upon him by this Act to ensure compliance by persons registered as insurance brokers, companies enrolled as carrying on business as insurance brokers and persons carrying out other insurance intermediary activities with the provisions of this Act and any rules or regulations made thereunder and with such conditions as may from time to time be specified in the respective certificate of registration or enrolment.

(2) The Minister shall by Order in the Gazette appoint a body to be the Competent Authority for the purposes of this Act to carry out the functions of the Competent Authority under this Act and to perform such other functions as the Minister may consider appropriate in relation to the operation of this Act. Such body shall be appointed for such period as the Minister may determine and the Minister shall have the power at any time to prolong, renew or terminate such appointment by Order in the Gazette.

(3) The Minister may, after consultation with the Competent Authority, make rules or regulations as may be required for carrying into effect any of the provisions of this Act and may amend or revoke such rules or regulations; and, without prejudice to the generality of the foregoing, the Minister may, by such rules or regulations, in particular, make provision in respect of any one or more of the following matters -

(a) the fees and duties to be levied in respect of any matter provided by or under this Act and any rules or regulations made under this section;

(b) the registration and enrolment of persons, other than persons registered and enrolled by virtue of this Act, carrying out insurance intermediary activities or providing services ancillary to business of insurance as may be prescribed;

(c) any matter relating to or connected with any provision contained in the Schedule;

(d) the administrative penalties in respect of infringements as may be prescribed which may be imposed and recovered by the Competent Authority without recourse

to a court hearing; administrative penalties shall be due to the Competent Authority as a civil debt:

Provided that an administrative penalty may not be greater than a financial penalty of five thousand Maltese liri in respect of any infringement and, where an infringement continues, a further penalty not exceeding fifty Maltese liri for each day during which the infringement continues.

(4) The Minister may also by regulations under this section, after consultation with the Competent Authority, extend and make applicable any of the provisions of this Act to any insurance intermediary activity as may be prescribed which in his opinion ought, in the public interest, to be regulated by such provisions.

(5) Rules and regulations made under this Act and any amendment or revocation of such rules and regulations, may be published in the English language only.

4. (1) It shall be the duty of the Competent Authority to carry out the functions assigned to it by or under this Act and to ensure that persons, companies or insurance intermediaries registered or enrolled in accordance with this Act and rules or regulations made thereunder comply with the provisions of this Act and of any rules or regulations made thereunder, with Insurance Intermediaries Directives made by the Competent Authority in virtue of this Act and of any rules and regulations made thereunder and with the conditions specified in certificates of registration or enrolment.

(2) The Competent Authority may make Insurance Intermediaries Directives as may be required for carrying into effect any of the provisions of this Act and of any rules and regulations made thereunder. The Competent Authority may amend or revoke such Insurance Intermediaries Directives.

(3) Insurance Intermediaries Directives and any amendment or revocation thereof shall be officially communicated to the persons or companies concerned and be open to public inspection at the offices of the Competent Authority at all times during the normal working hours of the Authority.

(4) Insurance Intermediaries Directives made by the Competent Authority in virtue of this Act may provide for different regulatory requirements to be applicable to different categories of insurance intermediaries; and without prejudice to Insurance Intermediaries Directives required to be made under this Act and to the generality of the foregoing, the Competent

Authority may, by such Insurance Intermediaries Directives, in particular -

(a) determine, in relation to insurance intermediaries, what constitutes fitness and properness;

(b) determine, in relation to insurance intermediaries, the criteria of sound and prudent management;

(c) determine the information which companies enrolled as carrying on business as insurance brokers and persons carrying out other insurance intermediaries activities shall disclose to persons seeking or making use of insurance intermediary services;

(d) determine the codes of conduct which may regulate any aspect of dealings between insurance intermediaries and insurance companies or between such intermediaries and persons seeking or making use of insurance intermediary services;

(e) determine, in relation to insurance intermediaries activities, the issuing of advertisements and the undertaking of any other promotional activities.

REGISTRATION OR ENROLMENT FOR CARRYING ON BUSINESS AS INSURANCE BROKERS

The insurance
brokers register.

5. The Competent Authority shall establish and maintain a register of persons carrying on business of insurance broking, in this Act referred to as "the Brokers Register", containing the names, addresses, qualifications and such other particulars as the Competent Authority may, from time to time, by an Insurance Intermediaries Directive made for the purpose of this section, determine, of all persons who are entitled under this Act to be registered therein and to apply in the manner determined by that Directive to be so registered.

Qualifications
for registration.

6. (1) Without prejudice to subsection (2) of this section, a person shall be entitled to be registered in the Brokers Register if he satisfies the Competent Authority that -

(a) he is an individual;

(b) he is a fit and proper person to be so registered and to ensure the company's sound and prudent management;

(c) he possesses the qualifications and fulfils or complies with the requirements determined by an Insurance Intermediaries Directive made for the purposes of this section.

(2) A person shall not be entitled to carry on any business of insurance broking by virtue of his registration under this section unless he is a director or an employee of a company enrolled under section 9 or 10 of this Act.

List of companies carrying on business as insurance brokers.

7. The Competent Authority shall establish and maintain a list of companies carrying on business as insurance brokers, in this Act referred to as "the Brokers List", containing the names, principal places of business and such other particulars as the Competent Authority may, from time to time, by an Insurance Intermediaries Directive made for the purposes of this section, determine, of all companies which are entitled under this Act to be enrolled therein and to apply in the manner determined by that Directive to be so enrolled.

General qualifications for enrolment.

8. Subject to section 9 or 10 of this Act, as the case may be, a company shall be entitled to be enrolled in the Brokers List if it satisfies the Competent Authority that -

(a) the company's objects are limited to business of insurance broking and to matters or functions connected therewith or ancillary thereto, to the exclusion of all other commercial business, other than business determined by an Insurance Intermediaries Directive made for the purposes of this section;

(b) the company's own funds, whether in Maltese liri or in other currencies acceptable to the Competent Authority and unencumbered at all times, amount to the value of not less than twenty-five thousand Maltese liri, or such other higher amount as may be prescribed:

Provided that the Competent Authority may further require such higher amount as it may deem appropriate for the kind of business intended to be carried on by the company;

(c) all qualifying shareholders, controllers and all persons who will effectively manage the affairs or carry on the activities of the company are fit and proper persons to ensure its sound and prudent management;

(d) the company discloses to the satisfaction of the Competent Authority such information as the Competent

Authority has requested of it in relation to persons who will, upon enrolment of the company, have any proprietary, financial or other interest in, or in connection with, that company;

(e) the company submits to the satisfaction of the Competent Authority a scheme of operations which shall include the particulars or proof as may be determined by the Insurance Intermediaries Directive made for the purpose of this section;

(f) the company has at all times in its favour a policy of professional indemnity insurance acceptable to the Competent Authority, indemnifying it, or any person employed by it, or otherwise acting for it, to such amount, in such manner and in respect of such matters as the Competent Authority may, from time to time, determine.

Specific qualifications for enrolment in the case of local companies.

9. A local company shall be entitled to be enrolled in the Brokers List if, in addition to the requirements of section 8 of this Act, the Competent Authority is satisfied that any one or more of the company's directors are registered insurance brokers and the business of insurance broking is carried on under the management of a registered insurance broker.

Specific qualifications for enrolment in the case of foreign companies.

10. (1) A foreign company shall be entitled to be enrolled in the Brokers List if, in addition to the requirements of section 8 of this Act, the Competent Authority is satisfied that -

(a) the company is registered or permitted in the country where its head office is situated to carry on business of insurance broking;

(b) the company has in Malta at all times -

(i) a branch; and

(ii) a representative.

(2) In relation to a branch of a foreign company carrying on business as insurance broker or carrying on other insurance intermediaries activities as may be prescribed, the requirements referred to therein are those set out in the following provisions of this subsection -

(a) in the case of a company carrying on business as insurance broker:

(i) the person is a registered insurance broker,

(ii) the person is a director of the company or has authority to act for the company; and the business of insurance broking is carried on under his management,

(iii) the person is not an approved auditor, or a partner or an employee of an approved auditor of the company;

(b) in the case of a company carrying on other insurance intermediaries activities as may be prescribed, provisions as may be prescribed.

11. No person shall act as an insurance broker and carry on, or attempt to carry on, in or from Malta, business as insurance broker unless such person is registered under section 13 of this Act and is a director or an employee of a company enrolled under the said section.

12. (1) No company which is a local company shall carry on, or attempt to carry on, in or from Malta, or in or from a country outside Malta, business as insurance broker unless such company is enrolled under section 13 of this Act.

(2) No company which is a foreign company shall carry on, or attempt to carry on, in or from Malta, business as insurance broker unless such company is enrolled under section 13 of this Act.

13. (1) An application for registration or enrolment under this section shall be made in such form and manner as the Competent Authority may from time to time determine.

(2) The Competent Authority shall have the power to require any applicant to provide such information as it may deem necessary for the purpose of determining an application for registration or enrolment under this section.

(3) The Competent Authority may grant registration or enrolment under this section only if it is satisfied, on the basis of the information required to be submitted under this Act and any information received by it, that registration or enrolment ought to be granted.

(4) Subject to the provisions of this Act, the Competent Authority may subject registration or enrolment made

Registration of persons for carrying on business as insurance brokers.

Enrolment of companies for carrying on business as Insurance brokers.

Grant of registration or enrolment.

under this section to such conditions as it may from time to time deem fit to impose.

(5) The Competent Authority shall determine an application for registration or enrolment under this section within three months of receiving the information required to be submitted under this Act; and if it refuses to grant registration or enrolment it shall inform the applicant in writing of the reasons for the refusal.

Certificate of registration or enrolment.

14. (1) On granting an application for registration or enrolment under section 13 of this Act, the Competent Authority shall issue to the applicant concerned a certificate of registration or enrolment in the form and manner as it deems appropriate evidencing -

(a) in the case of an application for registration, registration of the applicant concerned in the Brokers Register;

(b) in the case of an application for enrolment, enrolment of the applicant concerned in the Brokers List.

(2) A certificate of registration or enrolment issued under this section or an official copy thereof shall be prominently displayed by the holder concerned at his, or its, place or places of business, in a part thereof to which the public has access.

Opening of branches by enrolled local companies.

15. (1) Every local company enrolled under section 13 of this Act shall make application in writing to the Competent Authority before opening a branch in Malta.

(2) The Competent Authority may permit a local company enrolled as aforesaid to open a branch in Malta if it is satisfied that the business of insurance broking carried on by it from the branch is under the management of a registered insurance broker.

(3) Except with the written consent of the Competent Authority, no local company enrolled as aforesaid may open a branch or office or set up or acquire any subsidiary in any country outside Malta.

Striking a name off the Brokers Register or the Brokers List.

16. Without prejudice to anything contained in any other provision of this Act, the Competent Authority may at any time strike off the Brokers Register or the Brokers List the name of any registered person or enrolled company if -

(a) any document or information accompanying an application for registration or enrolment, or any information given in connection therewith, is false, incorrect or misleading in any material particular, or the registered person or the enrolled company has concealed, or conceals from or fails to notify to, the Competent Authority any document or information or change therein which it was his or its duty to reveal or to notify under this Act and any rules or regulations made thereunder, or any Insurance Intermediaries Directive; or

(b) it considers that the registered person or the enrolled company does not fulfil the requirements of, or has contravened, any of the provisions of this Act and any rules or regulations made thereunder, or any Insurance Intermediaries Directive, or has failed to satisfy or comply with any condition to which he or it, or the registration or the enrolment, is subject by virtue of or under this Act; or

(c) it considers that the registered person is unfit to retain his name on the Brokers Register or the enrolled company is unfit to retain its name in the Brokers List; or

(d) it receives a written request so to do by the registered person or the enrolled company; or

(e) the enrolled company no longer possesses the required own funds; or

(f) the registered person or the enrolled company fails to pay the annual continuance of registration or enrolment fee when due; or

(g) the registered person or the enrolled company does not carry on business of insurance broking within twelve months from registration or enrolment, or within such other period as may be specified in the certificate of registration or enrolment, or as may be granted by the Competent Authority; or

(h) the enrolled company is declared bankrupt or goes into liquidation or makes a composition with its creditors or is otherwise dissolved; or

(i) the enrolled company ceases to have on its board of directors any one person who is a registered insurance broker; or

(j) it considers that, by reason of the manner in which the registered person or the enrolled company is carrying on the business of insurance broking, or for any other valid reason, the interest of the insurance industry or of the public is threatened; or

(k) the registered person or the enrolled company has misappropriated or converted to his or to its own use or illegally withheld moneys held, or required to be held, by him or by it in a fiduciary capacity; or

(l) the registered person is convicted by any court of law of any criminal offence, not being an offence which, owing to its trivial nature or the circumstances under which it was committed, does not render him unfit to have his name in the Brokers Register; or

(m) the registered person or the enrolled company is considered by the Competent Authority to have carried on business of insurance broking in an unprofessional manner.

Notification of intention of striking a name off the Brokers Register or the Brokers List.

17. (1) Subject to the following provisions of this section, where the Competent Authority intends to strike the name of a registered person or of an enrolled company off the Brokers Register or the Brokers List, it shall give the person or the company concerned notice in writing setting out the reasons for its intention to do so.

(2) Every notice given under subsection (1) of this section shall state that the person or the company concerned may, within such reasonable period after the service thereof as may be stated in the notice (being a period of not less than forty-eight hours and not longer than fifteen days), make representations in writing to the Competent Authority giving reasons why the registration or the enrolment should not be struck off the Brokers Register or the Brokers List and the Competent Authority may consider any representations so made before arriving at a final decision.

(3) The Competent Authority shall notify in writing its final decision to the person or the company concerned.

(4) On notification by the Competent Authority to a person or a company that his or its name has been struck off the Brokers Register or the Brokers list, the person or the company concerned shall forthwith surrender to the Competent Authority the certificate of registration or enrolment, and any official copies thereof.

Restoration of a name struck off the Brokers Register or the Brokers List.

18. (1) Where the name of a person or of a company has been struck off the Brokers Register or the Brokers List in pursuance of a decision under section 16 of this Act, the name of that person or company shall not again be entered in the Brokers Register or the Brokers List unless -

(a) **otherwise** ordered by the Financial Services Tribunal; or

(b) in the absence of such order, the Competent Authority, on an application made to it in that behalf, otherwise decides.

(2) The Competent Authority shall determine an application for restoration of a name of a person or of a company to the Brokers Register or the Brokers List under this section within three months of receiving the information required to be submitted under this Act as if the application were an application made under section 13 of this Act; and if it refuses to restore a name of a person or of a company to the Brokers Register or the Brokers List, it shall inform the applicant in writing of the reasons for the refusal.

(3) Subsection (2) of this section shall not apply where the restoration of a name of a person or of a company to the Brokers Register or the Brokers List is made by an order of the Tribunal.

OBLIGATIONS OF ENROLLED COMPANIES

Moneys held in a fiduciary capacity.

19. (1) Every enrolled company shall keep moneys held by it in a fiduciary capacity separate from its own moneys and shall, in respect of those moneys, maintain separate accounts in accordance with requirements determined by an Insurance Intermediaries Directive made for the purposes of this section.

(2) No person shall have or obtain any recourse or right against moneys standing to the credit of the account referred to in subsection (1) of this section in respect of a claim or right against an enrolled company until all proper claims against those moneys have been satisfied

Fidelity bonds required of enrolled companies.

20. (1) Without prejudice to section 19 of this Act, every enrolled company shall effect a fidelity bond in a specified form, as respects its business of insurance broking, in such circumstances, to such value, in such manner and under such conditions as may be determined by an Insurance Intermediaries Directive made for the purposes of this section.

(2) The bond referred to in subsection (1) of this section shall provide that in the event of an enrolled company's inability or failure to meet its financial obligations in relation to any sums of money received by it from, or on behalf of, its clients, a sum of money will become available to a person nominated or approved by the Competent Authority, to be applied for the benefit of any client of the company who has incurred loss or liability because of the inability or failure of the company to meet such financial obligations.

Contracts of insurance relating to risks situated in Malta or to commitments where Malta is the country of the commitment.

21. (1) Subject to the following subsections of this section, except with the approval of the Minister given generally by Order in the Gazette, or with the approval of the Competent Authority given specifically in writing, a contract of insurance relating to a risk situated in Malta or to a commitment where Malta is the country of the commitment negotiated, arranged or procured by an enrolled company on behalf of an insured person or a person to be insured shall be taken out with an authorised company.

(2) Where a contract of insurance is a contract of a general business class or part class falling within group 3 of Part II of the Third Schedule to the Insurance Business Act, 1996 and such contract is a contract relating to a risk situated in Malta and is taken out with a Protection & Indemnity Club, that Club shall have to be a Club within the meaning of a "Protection & Indemnity Club" as construed in accordance with subsection (3) of section 6 of the said Act; and the Club shall have to satisfy or comply with the requirements of the Insurance Directive made for the purposes of the said section either on or before the date of commencement of such contract or not later than thirty days from the date of such commencement.

(3) Save as otherwise provided in subsection (2) of this section, the provisions of this section shall not apply to -

(a) contracts of insurance of a class, or part class, falling within group 3 or 4, other than contracts relating to marine risks which the Minister may, by Order in the Gazette, from time to time determine;

(b) business of reinsurance or affiliated insurance.

Notification of persons registered in the Brokers Register.

22. Every enrolled company shall, not later than the end of January of each year, notify in writing the Competent Authority in such manner as the Competent Authority may require, the name and the other particulars as it may also require, of every director and employee of the company who are registered in the Brokers Register; and during the next following twelve months, the

company shall give notice in writing to the Competent Authority of any change that may, from time to time, occur among such directors and employees and such notice shall be given not later than twenty days from the date of such change.

Submission of audited financial statements.

23. Every enrolled company shall, not later than four months from the date of closing of its financial year, or at any other time as may exceptionally be authorised in writing by the Competent Authority, forward to the Competent Authority a copy of its audited financial statements drawn up in accordance with the provisions of the Companies Act.

Submission of business of insurance broking statements.

24. (1) Subject to the following subsections of this section, an enrolled company which in any calendar year carries on business of insurance broking shall, in respect of the business of insurance broking so carried on by it, forward to the Competent Authority a statement relating to that business made out in the form, manner and content as the Competent Authority may, by an Insurance Intermediaries Directive made for the purposes of this section determine; and the date by which such statement shall be forwarded shall also be established by that Directive.

(2) The statement required to be submitted under this section shall be verified in the manner required by the Insurance Intermediaries Directive.

(3) The Competent Authority may at any time direct an enrolled company to submit to it such statement at such interval and for such period as it may specify in such directive.

Companies ceasing to carry on business as insurance broker.

25. An enrolled company shall not cease to carry on, in or from Malta, business as insurance broker except with the permission of the Competent Authority given in writing on an application made to it in that behalf in such manner as it may require, and in compliance with such conditions as it may deem proper to impose.

FINANCIAL YEAR AND AUDITORS

Financial year of enrolled companies

26. (1) Every enrolled company which is a local company shall, not later than three months from the date of a company's enrolment, notify in writing the Competent Authority of its financial year; and, failing such notice, the company's financial year shall terminate on the thirty-first day of December of each year.

(2) No enrolled company as aforesaid shall alter its financial year unless and until the Competent Authority has given

its approval in writing on an application made to it in that behalf.

(3) Every foreign company applying for enrolment under section 13 of this Act shall, on application, notify in writing the Competent Authority of its financial year; and after enrolment under that section, where a foreign company alters its financial year, it shall forthwith inform in writing the Competent Authority of such change.

(4) For the purposes of this Act financial year -

(a) in relation to an enrolled company which is a local company, means an accounting period as is construed in accordance with sections 164 to 166 of the Companies Act;

(b) in relation to an enrolled company which is a foreign company, means an accounting period as is construed in accordance with the provisions of the laws of the country where the head office of the company is situated governing the accounting period of such companies.

Appointment,
duties and
termination of
appointment
of auditors.

27. (1) Every enrolled company shall each year appoint an approved auditor as auditor to the company whose duty shall be to report on the financial statements of the company examined by him and on financial statements prepared by the company.

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

(3) The auditor's report shall include a statement as to whether the various requirements of this Act and of any rules or regulations made thereunder and of any Insurance Intermediaries Directives in respect of the company have been complied with and observed.

(4) Every auditor of an enrolled company shall have the right to demand such information or explanation as he deems necessary in the performance of his duties from any officer or employee of, or any person under an appointment from, that company.

(5) An auditor shall immediately give notice in writing to the Competent Authority if -

- (a) he resigns;
- (b) he does not seek to be re-appointed; or
- (c) he decides to qualify the audit report,

and, in the case of resignation, the auditor shall specify the reasons for so doing.

(6) An enrolled company shall give notice in writing to the Competent Authority immediately it receives notice of a resolution intended to be put before the company's annual general meeting to appoint as an auditor a person other than the retiring auditor or otherwise providing expressly that the retiring auditor shall not be reappointed.

(7) Where, for any reason whatever, the appointment of an auditor comes to an end, the enrolled company shall, not later than fourteen days from the termination of such appointment, give notice in writing to the Competent Authority stating reasons for such termination.

(8) The Competent Authority may require an enrolled company to change its appointed auditor where, in the Competent Authority's opinion, such auditor is considered unfit for this appointment, at any time during his term of office.

(9) Before requiring an enrolled company to change its appointed auditor in the circumstances mentioned in subsection (8) of this section, the Competent Authority shall notify in writing its intention to the company and the auditor concerned stating reasons for requiring such change and giving the auditor the opportunity to submit in writing within fourteen days from the date of serving of such notice reason why its appointment with the company should not be terminated.

(10) For the purposes of this Act, an approved auditor shall be a person who is qualified to be an auditor in accordance with the Companies Act and holds the authorisation of a competent authority to act as auditor issued to him under the Insurance Business Act, 1996.

(11) Notwithstanding anything contained in the foregoing subsections of this section, the Competent Authority may, in the case of a foreign company, approve such alternative arrangements as it thinks reasonable and which do not materially detract from the main objects of this section, and where such arrangements have been carried out, the provisions of this section

shall not apply to the extent that they are replaced by such arrangements.

(12) If, in his capacity as auditor of an enrolled company or due to a direct request by the Competent Authority under this Act, an auditor becomes aware of any matter which relates to and may have a serious adverse effect upon the stability and soundness of the company or the integrity of the business of insurance broking in Malta he shall immediately inform the Competent Authority through the company's management or, if circumstances so warrant, directly to the Competent Authority.

(13) In so far as the provisions of this section are inconsistent with the provisions of the Companies Act, the provisions of this section shall prevail and the provisions of the said Act shall, to the extent of the inconsistency, not apply to an enrolled company.

Communication
by auditors etc.
with the
Competent
Authority.

28. No duty (including the duty of professional secrecy) to which -

(a) an auditor of an enrolled company may be subject, shall be regarded as contravened by reason of his communicating in good faith to the Competent Authority, whether or not in response to a request from it, any information or opinion on a matter of which the auditor has become aware in his capacity as auditor of that company and which is relevant to any functions of the Competent Authority under the provisions of this Act or is required to be communicated by virtue of this Act;

(b) a person appointed to make a report under any provision of this Act may be subject, shall be regarded as contravened by reason of his communicating in good faith to the Competent Authority, whether or not in response to a request made by it, on any matter which relates to the business or affairs of an enrolled company in relation to which a report is made.

REGISTRATION AND ENROLMENT OF INSURANCE SUB-AGENTS

The insurance
sub-agents
company
registers.

29. (1) Every authorised company desirous of appointing a person to act on its behalf as an insurance sub-agent shall establish and maintain a register of persons acting as insurance sub-agents, in this Act referred to as "the Sub-agents Company Register", containing the names, addresses, the class or classes of long term business or the group or groups of classes of general business to be carried out by such persons under their respective sub-agency

appointment and such other particulars as the Competent Authority may, from time to time, by an Insurance Intermediaries Directive made for the purposes of this section, determine, of all persons who are entitled under this Act to be registered therein.

(2) Subject to the provisions of subsection (1) of this section, every authorised company shall determine its own procedures for appointing and registering a person as an insurance sub-agent in the Sub-agents Company Register of the company.

Qualifications
for registration.

30. (1) A person shall be entitled to be registered by an authorised company in the Sub-agents Company Register of the company if the company is satisfied that such person is fit and proper to carry out insurance sub-agency activities.

(2) A person shall not be entitled to carry out insurance sub-agency activities by virtue of his registration under section 33 of this Act unless and until he is enrolled by the Competent Authority in the Sub-agents List under that section.

List of persons
carrying out
insurance
sub-agency
activities.

31. (1) The Competent Authority shall establish and maintain a list of persons carrying out insurance sub-agency activities in this Act referred to as “the Sub-agents List”, containing the names of such persons, the names of authorised companies appointing and registering such persons as insurance sub-agents, the class or classes of long term business or the group or groups of classes of general business to be carried out by such persons under their respective sub-agency appointment and such other particulars as the Competent Authority may, from time to time, by an Insurance Intermediaries Directive made for the purposes of this section, determine, of all persons who are, or which are, entitled under this section to be enrolled therein.

(2) It shall be the duty of an authorised company to enrol with the Competent Authority in the Sub-agents List any person registered by it as an insurance sub-agent in the Sub-agents Company Register of the company under section 33 of this Act.

(3) On granting an application for enrolment under section 33 of this Act, the Competent Authority shall, in respect of a person registered by a company making the application, issue to that company a certificate of enrolment in the form and manner it deems appropriate evidencing enrolment of that person in the Sub-agents List.

(4) Where a person enrolled as aforesaid carries out insurance sub-agency activities from a place of business or from

any other place accessible to the public, that person shall display in a prominent position in that place in a part thereof to which the public has access, the certificate of enrolment issued by the Competent Authority under this section or an official copy thereof.

Restriction on persons for carrying out insurance sub-agency activities.

32. No person shall act as an insurance sub-agent and carry out, or attempt to carry out in Malta insurance sub-agency activities unless such person is appointed, registered and enrolled in accordance with the provisions of this Act.

Appointment, registration and enrolment of insurance sub-agents.

33. (1) Subject to the provisions of this Act, every authorised company desirous of appointing a person to act on its behalf as an insurance sub-agent shall, under this section, appoint and register in the Sub-agents Company Register of the company and enrol with the Competent Authority in the Sub-agents List, any one or more persons to act on its behalf as insurance sub-agents and to carry out in Malta insurance sub-agency activities in the class or classes of long term business or the group or groups of classes of general business specified in their respective sub-agency appointment; and, where a person is not an individual, such person must itself have an individual who satisfies the requirements of subsection (1) of section 30 of this Act:

Provided that a company is restricted from appointing and registering in the Sub-agents Company Register of the company a person which is -

(a) a person registered in the Brokers Register under section 13 of this Act;

(b) a company enrolled in the Brokers List under that section;

(c) a company authorised under the Insurance Business Act, 1996 -

(i) to carry on business of insurance;

(ii) to act as an insurance agent;

(iii) to act as an insurance manager:

Provided further that a company is prohibited from appointing any person to act on its behalf as an insurance sub-agent and to carry out in Malta insurance sub-agency activities within Group 4.

(2) Where an authorised company appoints and registers in the Sub-agents Company Register of the company a person which is not an individual, and that person carries out insurance sub-agency activities from any one or more places of business, that person shall ascertain that insurance sub-agency activities so carried out by it from each such place of business are carried out only by an individual who satisfies the requirements of subsection (1) of section 30 of this Act.

(3) Subject to subsections (4) to (6) of this section, any person may seek and obtain under this section appointment and registration in a Sub-agents Company Register of an authorised company to carry out insurance sub-agency activities on behalf of that company.

(4) Any person desirous of seeking appointment and registration in a Sub-agents Company Register of an authorised company to carry out insurance sub-agency activities -

(a) relating to long term business, may obtain appointment and registration in the Sub-agents Company Register of not more than two companies authorised to carry on long term business;

(b) relating to general business, may obtain appointment and registration in the Sub-agents Company Register of not more than two companies authorised to carry on general business.

(5) Where a person desires to seek appointment and registration in the Sub-agents Company Register of more than one company authorised to carry on long term business, and where any class of long term business carried on by the companies concerned is of the same kind, such person shall, in respect of that class of business, seek and obtain appointment and registration to carry out insurance sub-agency activities relating to that kind of class of business only in the Sub-agents Company Register of one of the companies concerned.

(6) Where a person desires to seek appointment and registration in the Sub-agents Company Register of more than one company authorised to carry on general business, and where any group of classes of general business carried on by the companies concerned is of the same kind, such person shall, in respect of that group of classes of business, seek and obtain appointment and registration to carry out insurance sub-agency activities relating to that group of classes of business only in the Sub-agents Company Register of one of the companies concerned.

(7) No person who is an employee of an authorised company shall, solely by virtue of his employment by the company, require registration in the Sub-agents Company Register of the company under this section except where such person carries out insurance sub-agency activities on behalf of the company in a place or places, other than the company's place, or places of business.

(8) On granting an application for enrolment under this section the Competent Authority shall issue to the applicant concerned a certificate of enrolment in the form and manner it deems appropriate evidencing enrolment of the person registered in the Sub-agents Company Register of the applicant in the Sub-agents List.

(9) Subject to the provisions of this Act, the Competent Authority may subject enrolment made under this section to such conditions as it may from time to time deem fit to impose.

(10) An authorised company shall at all times be responsible for any act or omission of its registered insurance sub-agents provided that such act or omission is an act or omission pertaining to a contract of insurance issued by the company or offered on its behalf through the services of such insurance sub-agents. For the purposes of this subsection any reference to registered insurance sub-agents shall include a reference to past as well as present registered insurance sub-agents.

(11) Notwithstanding any other provision of this Act, for the purposes of this section "authorised company" includes an individual member of an association of underwriters carrying on business of insurance in Malta through an insurance agent.

34. Subject to the provisions of section 35 of this Act and to the terms and conditions of any relevant insurance sub-agency appointment, at any time and for any reason whatever -

(a) any authorised company may strike off the Sub-agents Company Register of the company the name of any person registered in the Register of the company;

(b) any person registered in the Sub-agents Company Register of an authorised company may make application in writing to the company concerned requesting the company to strike his name off the Sub-agents Company Register of the company.

Notification of striking names off sub-agents company registers.

35. (1) Where an authorised company elects to strike the name of a person off the Sub-agents Company Register of the company, the company shall forthwith notify in writing the person concerned and the Competent Authority specifying the date on which it elects to strike the name of that person off the Register.

(2) Where an authorised company strikes the name of a person off the Sub-agents Company Register of the company on grounds of unfitness and impropriety or because the person concerned has acted fraudulently, or dishonestly, or in such manner as to cease to be trustworthy, the company shall also notify in writing the Competent Authority the reasons for so doing.

(3) On receiving a notification from an authorised company that the company has elected to strike the name of a person off the Sub-agents Company Register of the company, the Competent Authority shall as early as reasonably practicable confirm in writing to the company that the name of such person, in so far as it relates to that company, shall be, or has been, struck off the Sub-agents List as from the date specified in the company's notification.

(4) Without prejudice to any action which the Competent Authority may deem appropriate under this Act or any other law, where the Competent Authority strikes the name of a person off the Sub-agents List on the grounds specified in subsection (2) of this section, the Competent Authority may give publicity to the striking of that name off the Sub-agents List and -

(a) if the name of that person is registered in the Sub-agents Company Register of any other company, the Competent Authority shall also forthwith notify in writing that other company and direct it to strike forthwith the name of that person off the Sub-agents Company Register of that company and give the company the reasons for its direction;

(b) if the Competent Authority elects to give publicity to the striking of that name off the Sub-agents List, the Competent Authority shall publish a notice in at least two daily local newspapers of which one is published in the Maltese language and the other in the English language; and the text of the notice shall be in Maltese in the Maltese daily and in English in the English daily.

(5) The Competent Authority shall have power to order that all expenses incurred by the publication of a notice pursuant to this section, or such part thereof as it may deem appropriate, shall be paid by the person concerned; and any sum

so due shall be recoverable by the Competent Authority in the same manner as an administrative penalty imposed under this Act.

(6) Where an authorised company receives in writing an application from a person registered in the Sub-agents Company Register of the company requesting the company to strike the name of that person off the Sub-agents Company Register of the company, the company shall without undue delay strike the name of that person off the Sub-agents Company Register of the company and notify in writing the person concerned and the Competent Authority specifying the date on which it elects to strike the name of that person off the Register.

(7) Where, on an application made to an authorised company under subsection (6) of this section, the company refuses, or unduly prolongs the process, to strike the name of a person off the Sub-agents Company Register of the company, the person concerned may refer the matter to the Competent Authority and the Competent Authority shall issue in writing to the company concerned those directives it deems necessary to oblige the company to hasten the process to strike the name of that person off the Sub-agents Company Register of the company.

(8) On notification by the Competent Authority to an authorised company that the name of a person registered in the Sub-agents Company Register of the company has been struck off the Sub-agents List, the company concerned shall forthwith surrender to the Competent Authority the certificate of enrolment relating to that person, and any official copies thereof.

Protection of
the public or
other interest.

36. Notwithstanding any provision of this Act, the Competent Authority may, at any time, on grounds of unfitness and impropriety or of protection of the public interest -

- (a) refuse to enrol a person in the Sub-agents List;
- (b) strike the name of a person off the Sub-agents

List:

Provided that, in each case, the Competent Authority shall inform the company concerned in writing of the reasons for so doing.

Restoration of a
name struck off
the Sub-agents List.

37. Where in pursuance of section 34 of this Act the name of a person has been struck off the Sub-agents List -

- (a) on grounds contained in subsection (2) of that section, the name of that person shall, upon application by an

authorised company, again be enrolled in the Sub-agents List only on the order of the Tribunal or on acquittal from an offence under that subsection by any court;

(b) on grounds other than those contained in subsection (2) of that section, the name of that person may, upon application by an authorised company, again be enrolled in the Sub-agents List.

GENERAL PROVISIONS

38. (1) On the basis of international agreements, or upon reciprocity agreements, the Competent Authority may share information and co-operate in its supervisory duties with other foreign regulatory authorities -

(a) in the case of an enrolled company, or a branch of an enrolled company, as the case may be, carrying out business of insurance broking in or from Malta which is fully or partly owned by a foreign person; or

(b) in the case of an enrolled company which is a local company, carrying out business of insurance broking in or from a country outside Malta which is fully or partly owned by a Maltese resident.

(2) There shall be meetings held between an authorised company and the Competent Authority or between an enrolled company, its approved auditor and the Competent Authority on a bilateral or a trilateral basis as circumstances may warrant. These meetings may be called by any of the parties concerned but shall always be chaired by the Competent Authority.

39. (1) Nothing in this Act shall authorise the Competent Authority to enquire or cause an enquiry to be made in an enrolled company into the affairs of any individual client of the enrolled company except for the purpose of ensuring compliance with any of the provisions of this Act.

(2) No person, including past and present officers or agents of an enrolled company, shall disclose any information relating to the affairs of an enrolled company or of a client of an enrolled company which he has acquired in the performance of his duties or the exercise of his functions under this Act except -

(a) when authorised to do so under any of the provisions of this Act;

Co-operation in supervisory duties and sharing of information.

Confidentiality.

(b) for the purpose of the performance of his duties or the exercise of his functions;

(c) when required to do so by any court or under a provision of any law.

(3) In this section, the expression "agents", in relation to an enrolled company, means and includes the bankers and the auditor of the company.

(4) When an officer or an employee of an enrolled company, or of an enrolled person, has reason to believe that an activity or a proposed activity could involve money laundering, he shall act in accordance with regulations laid down under the Prevention of Money Laundering Act, 1994 and any guidelines issued by the Competent Authority. Compliance with the provisions of this subsection shall not constitute a breach of confidentiality.

Inspection of the registers and the lists.

40. (1) The Brokers Register, the Brokers List and the Sub-agents List shall be open to public inspection, free of charge, at the offices of the Competent Authority at all times during the normal working hours of the Authority.

(2) Any person may, upon payment of such fee as may be prescribed, obtain from the Competent Authority extracts from the Brokers Register, the Brokers List and the Sub-agents List and official copies of certificates of registration or enrolment.

(3) The Sub-agents Company Register of any company shall be open to public inspection, free of charge, at the principal office of the authorised company concerned during the normal working hours of the company.

Use of the word "insurance".

41. (1) Subject to the following provisions of this section, save with the written permission of the Competent Authority, no person other than -

(a) a person registered in the Brokers Register under section 13 of this Act; or

(b) a company enrolled in the Brokers List under that section; or

(c) a company authorised under the Insurance Business Act, 1996; or

(d) a person who holds insurance qualifications of an institute of repute recognised for such purpose by the

Competent Authority,

shall use the word "insurance" as part of his or its description or title or make any such use on any letter paper, in any notice or advertisement, or in any other similar manner.

(2) Any foreign company enrolled or authorised as aforesaid may use the name used in its country of registration, incorporation or constitution save that, where there is a risk that the use of such name may be misleading, such company shall add such explanatory particulars to its name as the Competent Authority shall direct.

(3) The Competent Authority may, by an Insurance Intermediaries Directive made for the purpose of this section, determine persons, other than persons referred to in the foregoing subsections of this section, who or which may be permitted to use the word "insurance" as part of their name.

(4) For the purposes of this section, the expression "insurance" includes reinsurance, assurance and reassurance and any of their derivatives or other words as may indicate or purport to indicate the carrying on of business of insurance or of business of insurance broking or the carrying out of insurance intermediaries activities or the carrying on of such business or the carrying out of such activities in any language in the description or title under which a person is carrying on such business or carrying out such activities.

Service of
notices, etc.

42. A notice or other document to be given or served under this Act and any rules or regulations made thereunder shall be deemed to have been duly given or served on a person if -

- (a) it has been delivered to him; or
- (b) it has been left at the address furnished by him to the Competent Authority, or at his last known address; or
- (c) it has been sent to him by post or by telefax at any of the aforesaid addresses; or
- (d) in the case of a body of persons, whether corporate or unincorporate, it has been given or served in any of the manners aforesaid to or on a director, an officer, a clerk or the representative of that body.

Underwriting
agreements.

43. (1) Subject to the following subsections of this section, any company enrolled under section 13 of this Act may make or enter into any underwriting agreement in respect of general

business classes with any authorised company.

(2) Notwithstanding any other provision of this Act, in relation to an association of underwriters, a company enrolled as aforesaid may make or enter into any underwriting agreement only with any underwriting member of the association of underwriters carrying on business of insurance in Malta through an insurance agent.

(3) Every company enrolled as aforesaid shall register with the Competent Authority in the form and manner as the Competent Authority may, by an Insurance Intermediaries Directive made for the purposes of this section determine, any underwriting agreement made or entered into under this section.

(4) No business of insurance shall be accepted under an underwriting agreement unless the underwriting agreement has been duly registered as aforesaid.

(5) The Competent Authority shall determine an application for registration of an underwriting agreement under this section within one month of receiving the information required to be submitted under the Insurance Intermediaries Directive; and if it refuses to register the agreement it shall inform the applicant in writing of the reasons for the refusal.

(6) Subject to the provisions of this Act, the Competent Authority may subject registration of any underwriting agreement made under this section to such conditions as it may from time to time deem fit to impose.

(7) For the purposes of this section "underwriting agreement", in relation to business of insurance, means an agreement between an authorised company and a company enrolled under section 13 of this Act under which the enrolled company may, in accordance with the terms thereof, accept risks situated in Malta on behalf of the authorised company; and, in this context, any other agreement, by whatever name it may be called, whose objects and purposes are similar to an underwriting agreement, for the purposes of this section, is deemed to be an underwriting agreement.

44. (1) Every enrolled company shall notify in writing the Competent Authority of any material changes in the documentation provided or required to be provided by or under this Act and any rules or regulations made thereunder or any Insurance Intermediaries Directive, as soon as it becomes aware of such changes.

(2) Without prejudice to section 49 of this Act insofar as it refers to section 38 of the Insurance Business Act, 1996, every enrolled company which is a local company shall, before making any addition or alteration to the memorandum or articles of association or other instrument constituting the company submit in writing to the Competent Authority particulars of the proposed addition or alteration for its prior consent; and no such addition or alteration shall be made or shall be registered or shall take effect, whether it is registered or not, unless and until the Competent Authority has signified its consent in writing.

Appeals.

Act No. XV or 1994.

45. (1) In this Act, the "Financial Services Tribunal" and "Tribunal" mean the Tribunal established in terms of section 10 of the Banking Act, 1994:

Provided that for the purposes of procedures arising under this Act the proviso to subsection (1) of section 57 of the Insurance Business Act, 1996 shall apply;

Provided further that, for the purposes of those procedures, the provisions of section 10 of the Banking Act, 1994 shall, except in so far as any of them is incompatible with the provisions of this section, also apply.

(2) Subject to the provisions of this section, any person who, or any company which, is aggrieved by a decision of the Competent Authority -

(a) to refuse to register or to enrol an applicant under section 13 or 36 of this Act;

(b) to impose any condition on, or subsequent to, registration and enrolment under section 13 of this Act;

(c) to strike the name of a person off the Brokers Register or the name of a company off the Brokers List under section 16 of this Act;

(d) to refuse to restore the name of a person to the Brokers Register or the name of a company to the Brokers List under subsection (2) of section 18 of this Act;

(e) to strike the name of a person off the Sub-agents List under section 35 of this Act;

(f) to require an authorised company to strike the name of a person off the Sub-agents Company Register of a company under section 36 of this Act;

(g) to refuse to register an underwriting agreement under section 43 of this Act;

(h) to impose an administrative penalty in respect of infringements as may be prescribed under section 3 of this Act,

may appeal against the decision to the Financial Services Tribunal which shall have exclusive competence to hear appeals on the matters listed in this subsection.

(3) An appeal under this section shall lie only on any of the following grounds -

(a) that the Competent Authority has wrongly applied any of the provisions of this Act; or

(b) that the decision of the Competent Authority constitutes an abuse of discretion or is manifestly unfair, provided that the discretion of the Competent Authority may not, so long as it has been exercised properly, be queried by the Tribunal.

(4) An appeal made under this section shall not suspend the operation of any decision from which the appeal is made.

Exclusion of liability.

46. The Competent Authority and any member, officer or employee of the Competent Authority, and any other person appointed to perform a function under this Act and any rules or regulations made thereunder shall not be liable in damages for anything done or omitted to be done in the discharge or purported discharge of any functions under this Act and any rules or regulations aforesaid, unless the act or omission is shown to have been done or omitted to be done, as the case may be, in bad faith.

Offences.

47. (1) Any person -

(a) who contravenes or fails to comply with any of the provisions of this Act, or of section 29, 30 or 38 of the Insurance Business Act, 1996 as applicable in accordance with section 49 of this Act;

(b) who contravenes or fails to comply with any rules or regulations made under this Act, other than rules or regulations in relation to which administrative penalties have been prescribed under paragraph (d) of subsection (3) of section 3 of this Act;

(c) who contravenes or fails to comply with any Insurance Intermediaries Directive or registration or enrolment condition;

(d) who fails to comply with any lawful order or requirement of the Competent Authority;

(e) who fails to comply with any order or requirement of the Financial Services Tribunal;

(f) who fails to comply with any lawful order or requirement of any other person made under this Act and any rules or regulations made thereunder;

(g) who without any reasonable excuse alters, suppresses, conceals, destroys or refuses to produce any document which is lawfully required to be produced by any person under this Act and any rules or regulations made thereunder;

shall be guilty of an offence.

(2) Any person who is knowingly a party to, or procures or aids and abets the commission of any offence under subsection (1) of this section shall be guilty of an offence and shall be liable to the same penalties as the principal offender.

Penalties.

48. (1) Any person guilty of an offence under the provisions of section 47 of this Act shall be liable on conviction to a fine (multa) of not less than one hundred Maltese liri and not exceeding fifty thousand Maltese liri or to a term of imprisonment not exceeding two years, or to both such fine and imprisonment.

(2) No proceedings for an offence under this Act or any regulations made thereunder other than an infringement to which paragraph (d) of subsection 3 of section 3 applies, shall be commenced without the consent of the Attorney General.

(3) The provisions of this Act shall not affect any criminal proceedings that may be competent under any other law.

Application of certain sections of the Insurance Business Act, 1996 to enrolled companies.

49. (1) Sections 29, 30, 31 and 38 of the Insurance Business Act, 1996 (in this section referred to as "the Act") shall apply with respect to a company enrolled in the Brokers List subject to the following provisions of this section.

(2) Sections 29, 30, 31 and 38 of the Act shall apply as if -

(a) reference to an "authorised company" were a reference to an "enrolled company";

(b) reference to the "Competent Authority" were a reference to the "Competent Authority" under this Act;

(c) reference to "business of insurance" were a reference to "business of insurance broking";

(d) reference to "Insurance Directive" were a reference to "Insurance Intermediaries Directive";

(e) reference to a "company whose head office is in a country outside Malta" were a reference to a "foreign company".

Application of
Exchange Control
Act. (Cap. 233).

50. The Exchange Control Act shall not apply to business of insurance broking carried out by an enrolled company with a client who is a person not resident in Malta for the purposes of the said Act.

Savings.

51. (1) Every licence issued or renewed or other action whatsoever taken or commenced under the Insurance Business Act, 1981 (in this section referred to as "the Act"), prior to its repeal by the Insurance Business Act, 1996, in so far as it applies to insurance brokers and insurance salesmen, shall continue in force and to be valid as if such licence were a certificate of enrolment issued or if such other action were action taken or commenced under this Act.

(2) Any person or company licensed under the Act to act as an insurance broker or insurance salesman shall not later than six months from the date of coming into force of this Act ("the appointed date") conform with the provisions of this Act or otherwise cease to act as an insurance broker or insurance salesman.

(3) Where a company ceases to act as an insurance broker on grounds that such company did not, on the appointed date, conform with the provisions of this Act that company shall be deemed to have made an application to the Competent Authority under section 25 of this Act to cease to carry on business as insurance broker and to have been given permission by the Competent Authority under that section to cease to carry on that business under such conditions as the Competent Authority may deem proper to impose.

(4) For the purpose of this section, "licence" includes authority, permit, approval and appointment.

Cap 330.

(5) The provisions of this section shall not apply to Insurance broking offshore companies registered under the Malta Financial Services Centre Act, until such time as the Minister may by Order in the Gazette establish.

SCHEDULE

(Section 2)

INSURANCE INTERMEDIARIES AND INSURANCE INTERMEDIARIES
ACTIVITIES

For the purposes of paragraph 1 of the Third Column of this Schedule, "risk" means and includes a risk situated in Malta or a risk situated outside Malta; and "risk situated outside Malta", in relation to a contract of insurance, has the same meaning as is assigned to it by subsection (1) of section 2 of the Insurance Business Act, 1996;

First Column

Second Column

Third Column

Independent Insurance Intermediaries	Dependent Insurance Intermediaries	Insurance Intermediaries Activities
Insurance broker	Insurance sub-agent	<p>1. Professional activities of persons listed in the First Column of this Schedule who, for a commission, acting with complete freedom as to their choice of lawful insurance companies, bring together, with a view to the insurance or reinsurance of risks or commitments, persons seeking insurance or reinsurance and insurance companies, carry out work preparatory to the conclusion of contracts of insurance or reinsurance and, where appropriate, assist in the administration and performance of such contracts, in particular in the event of a claim;</p> <p>2. Activities of persons listed in the Second</p>

		<p>Column of this Schedule who, for a commission, acting on behalf of authorised companies, among other things carry out introductory work, introduce contracts of insurance or collect premiums, provided that no insurance commitments towards or on the part of the public are given as part of these activities.</p>
--	--	--

Objects and Reasons

The object of the Bill is to make new provisions regulating the registration and enrolment of insurance brokers and other intermediaries and insurance intermediaries activities as well as insurance broking activities in or from Malta, or in or from a country outside Malta, in substitution of those contained in the Insurance Business Act (Cap 290) and the Malta Financial Services Centre Act (Cap 330), and to make provisions for matters ancillary thereto or connected therewith.