

Explanatory Memorandum

- 1. This Bill is promoted by Mr. Cannan on behalf of the Isle of Man Financial Services Authority ("the Authority").
- 2. The Bill makes a number of amendments to the *Insurance Act 2008* ("the principal Act"). Inter alia, it introduces provisions which allow for the surrender of authorisation by authorised insurers and the cancellation of registration by insurance managers and intermediaries, introduces new mechanisms in relation to: capital requirements (solvency levels) to be maintained by authorised insurers; the duty of auditors to make disclosures to the Authority; corporate governance; actuaries qualifications; the establishment and supervision of insurance groups; prohibitions and warning notices; the appointment of receivers and business managers; fees; the registers maintained by the Authority; the manner in which communications may be made to the Authority; winding up of insurers; appointment of experts under Schedule 5 to the principal Act and disclosure of information under Schedule 6.
- 3. Clause 1 gives the resulting Act its short title and clause 2 provides for its commencement to be by a day or days appointed by the Isle of Man Financial Services Authority. An appointed day order may include consequential, incidental, transitional and saving provisions.
- 4. Clause 3 provides for the resulting Act to expire on the day after its promulgation or on the day after the last provision is brought into operation.
- 5. Clause 4 defines the Act which this legislation largely amends as "the principal Act".
- 6. Clauses 5 and 6 substitute the existing section 12 of the principal Act by a new provision and insert new sections 12A to 12D into the Act. These provisions deal with the solvency of authorised insurers. The substituted section 12 requires an authorised insurer to establish and maintain 2 capital requirements (a minimum capital requirement ("MCR") and a solvency capital requirement ("SCR")) and to hold capital resources to meet these requirements. The new section 12A requires an authorised insurer to refrain from paying a dividend or making a distribution to anyone other than a policyholder where to do so would cause the insurer to breach the SCR or where the amount of the dividend or distribution would cause this to occur. The new section 12B requires an insurer to inform the Authority where an insurer's capital resources fall below either of the capital requirements maintained under section 12 or where the insurer becomes aware of a substantial risk of this occurring within the next 3 months. Section 12C sets out the Authority's powers where the insurer's capital resources fall below the MCR. Under this provision the Authority may either



- require the insurer to submit a scheme under section 13 or else it may present a petition for the winding up of the insurer under paragraph 4 of Schedule 3. The new section 12D sets out the Authority's powers where an insurer's capital resources fall below the SCR. In these circumstances the Authority may either require the insurer to submit a scheme under section 13 or else withdraw the insurer's authorisation to accept new business under section 10.
- 7. A number of provisions are consequential upon these changes. These are: paragraph 1(2) of Schedule 2 (which amends the cross-heading before section 12); the amendment to section 53(1) made by paragraph 1(6)(a)(ii) of Schedule 2 (this inserts a new paragraph (aa) into section 53(1) which makes it an offence to fail to give the Authority notification under section 12B); the amendment to paragraph 21 of Schedule 7 to the principal Act made by paragraph 1(10) of Schedule 2 (consequential upon the change in terminology introduced by the substitution of section 12) and the amendment made by paragraph 1(8)(a) of Schedule 2 to paragraph 4(a) of Schedule 3 to the principal Act.
- 8. Clause 7 amends section 13 of the principal Act and makes a number of changes to the current wording. The amendment made by subsection (2) requires an insurer to submit a short-term financial scheme to the Authority for the purpose of enabling the insurer to comply with the MCR or SCR. The amendment made by subsection (3) of the clause changes the existing requirement in subsection (2) of section 13 for an insurer to submit a scheme within 30 days of a request by the Authority to a requirement to submit such a scheme within 30 days where the scheme is to address a breach of the MCR or within 60 days where the scheme is to address a breach of the SCR. There are also powers conferred upon the Authority to give directions to an insurer about the scheme and a requirement for the insurer to give effect to the scheme within a timeframe (3 months in the case of breach of the MCR and 6 months in the case of breach of the SCR). If the insurer does not submit a scheme or fails to give effect to a scheme there are sanctions provided. In the case of a failure to give effect to a scheme to address breach of the MCR the insurer is deemed to be unable to pay its debts and may be wound up and in the case of failure to give effect to a scheme to address breach of the SCR the Authority may withdraw the insurer's authorisation to accept new business.
- 9. The second amendment made by paragraph 1(6)(a)(ii) in Schedule 2 (the insertion of a paragraph (ab) into section 53(1)) is consequential upon the changes made by clause 7. It provides for failure to abide by a direction under section 13(6C) to be an offence.
- 10. Clause 8 and clause 9 are connected. Clause 8 repeals section 19 and clause 9 repeals section 20 of the principal Act. These changes also take place in conjunction with amendments to Schedule 3 made by clause 10.
- 11. The repeal of section 53(1)(d) and (e) made by paragraph 1(6)(a)(iv) of Schedule 2 (together with the associated amendment made by paragraph 1(6)(a)(iii)) and the omission of the definition of "long-term business fund" in section 54 made



- by paragraph 1(7)(a) of that Schedule are consequential provisions in view of the repeal of sections 19 and 20.
- 12. Clause 10 amends Schedule 3 to the principal Act. This provides for the division of an insurer's capital into 2 amounts. In the event of a winding up assets comprising a fund known as "technical provisions" are available for distribution to policyholders. Assets apart from these may be distributed to the insurer's shareholders. The amendment of paragraph 6 of Schedule 3 to the principal Act made by paragraph 1(8)(b) of Schedule 2 is consequential upon this provision.
- 13. Clause 11 makes amendments to Schedule 2 to the principal Act. The effect of these is to provide for long-term business carried on by authorised insurers to be capable of transfer only to other authorised insurers after sanction from the High Court. The provisions also allow for foreign insurers (one of whom is a permit holder) to apply to court if they so desire in order to obtain official sanction of transfers of long term business by them. In the case of a transfer by a foreign insurer notification has to be given to the Authority of the intention to make the transfer and the Authority then has a discretion to direct the matter to go to court. Paragraph 1(6)(b)(v) is consequential upon the amendments made by this clause. The amendments here provide for failure to comply with paragraph 7B, a requirement to notify the Authority under paragraph 7C(a) of Schedule 2 or failure to comply with a direction under paragraph 7C(b) of that Schedule to be offences.
- 14. Clause 12 amends section 21 in order to insert the words "exceptions and adaptations" into the provision (which deals with the transfer of non-long-term business). This allows regulations to make different provision to that made in Schedule 2 in the case of this type of business.
- 15. Clause 13 inserts a new Part 4A (new sections 21A to 21I) into the principal Act. This provides for the putting in place of arrangements for group supervision of insurers. Section 21A is a general interpretation provision for the new Part. Section 21B defines the term "insurance group" for the purposes of the Part. The concept "insurance group" refers to group of companies which consists of an authorised insurer and any other undertaking which is: (a) the holding company or subsidiary of the insurer; (b) a subsidiary of that holding company (c) an undertaking in which that holding company or the insurer or any subsidiary of the insurer or the holding company is entitled to exercise or control the exercise of 20% or more of the voting power or (d) any undertaking other than one mentioned above which has the power to exercise or actually exercises a dominant influence or control over the authorised insurer. For these purposes an undertaking may be a body corporate, a partnership, an unincorporated association or a trust (or any comparable entity formed under the law of another jurisdiction). Section 21C confers power upon the Authority to determine whether it is appropriate for the Authority to be the group supervisor. In exercising this power the Authority must take into account the matters set out in section 21C(3) namely: whether the group is headed by an authorised insurer (this is an insurer governed by Manx law); where the group



is not headed by an authorised insurer whether it is headed by a holding company which is incorporated in the Island; in circumstances where the group is headed by a holding company which is not incorporated in the Island whether the Authority is satisfied that the group is directed and managed from the Island or the insurer with the largest balance sheet is an authorised insurer; whether the principal activity of the group is the carrying on of insurance business and any other matter which may be prescribed. In addition, under section 21C(4) the Authority may determine that it is not appropriate for it to be the group supervisor of an insurance group notwithstanding satisfaction of the other criteria where the insurance business carried on does not involve liability to third parties. Further powers are given to the Authority by the new section 21D, 21E and 21F to exclude a company from or include a company within a group or to withdraw from its role as group supervisor. A company may be excluded where there are legal impediments to cooperation and the exchange of information, the financial operations of the company have a negligible impact on group operations or the inclusion of the company would be incompatible with objectives set down in regulations. A company may be included where its financial operations have a material impact on the group's operations or its inclusion would be appropriate for some other reason. The Authority may withdraw as group supervisor on its own initiative, at the request of a competent authority from another jurisdiction or on the application of an insurer. In the case of any of these decisions the Authority must notify the relevant designated insurer in writing. The functions of a group supervisor are set out in section 21G; these are: the co-ordination of the gathering and dissemination of information; supervisory review and assessment of the financial situation of groups; assessment of the degree to which insurance groups are complying with regulations in relation to solvency and risk concentration and systems of governance; coordination of supervisory activities and enforcement action with other group supervisors. A power to make regulations in relation to group supervision is provided by section 21H and section 21I requires the appointment of an actuary to an insurance group which carries on long-term business.

- 16. Paragraph 1(5)(a) of Schedule 2 amends section 47 (fees) in consequence of the introduction of Part 6 (group supervision). It authorises the Authority to charge an annual fee for the registration of a designated insurer. The amendment made by paragraph 1(5)(b) is consequential upon this change also and allows any new fee which is unpaid to be sued for as a civil debt.
- 17. Clause 14 amends section 14 to allow more latitude in relation to the time for submission of accounts by an authorised insurer to the Authority.
- 18. Clause 15 inserts section 27A into the principal Act. It provides for systems of accounting to apply to insurance managers and intermediaries and for copies of accounts together with other material to be produced to the Authority at such time or times as they Authority may require.
- 19. Paragraphs 1(6)(b)(ii) and 1(7)(b) of Schedule 2 are consequential upon the introduction of the new section 27A. The first provision amends section 53(2)(e)



- of the principal Act in order to make it an offence where a person fails to comply with the requirements of section 27A in relation to production of accounts. The second amends the definition of "annual accounts" in section 54 of the principal Act so that it refers to accounts mentioned in the new provision.
- 20. Clause 16 amends section 18 of the principal Act in order to update a reference to the professional body for actuaries and to allow modifications to be made to the provision in the case of authorised insurers who carry on non-long term business. Such modifications must be made by means of regulations.
- 21. Clause 17 creates a new offence where an existing offence under the Act is committed with the consent of, connivance of or is attributable to neglect on the part of an actuary.
- 22. Clause 18 inserts a new section 15A into the principal Act. This provision requires an auditor who becomes aware that an authorised insurer may be in contravention of the Act or any direction or requirement imposed under the Act and that this contravention may be of material significance in relation to the Authority's functions under the Act to report the matter in writing to the Authority. The provision exonerates an auditor from any professional duty of confidentiality in these circumstances. Paragraph 1(6)(c) of Schedule 2 is consequential upon the introduction of this provision and of the introduction of the new section 27C inserted into the principal Act by clause 20. This provision makes it an offence for an auditor to fail to comply with the reporting requirements mentioned in section 15A(1) or section 27C(1).
- 23. Clause 19 inserts a new section 27B into the principal Act. This requires registered insurance managers and intermediaries to appoint auditors and requires the Authority to be notified where a decision is taken not to re-appoint an existing auditor.
- 24. Clause 20 inserts a new section 27C into the principal Act. This has the same effect for registered managers and intermediaries as section 15A (inserted by clause 18 of this bill) has for authorised insurers. It requires an auditor to report any breaches of the Act or of directions or requirements made under it to the Authority and absolves the auditor for culpability for breach of any professional or other duty in these circumstances.
- 25. Clause 21 makes a number of amendments to section 29 of the principal Act. It inserts a reference to "principal control officer" into the section. The effect of this is to require written notice to be served on the Authority by an insurer appointing a principal control officer. The current facility vested in the Authority under subsection (1) to substitute a shorter period in relation to the period of 28 days for serving the notice in question is amended to confer discretion upon the Authority to allow a shorter or longer period in place of this. The Authority may under subsection (3) direct that a person may not continue to be employed as a principal control officer where the person does not appear to the Authority to be fit and proper to do so. By section 53(2)(e)(iii) it is an offence to fail to comply with a direction under section 29(2) or (3).



- 26. Clause 22 amends section 30 of the principal Act and requires a notice to be served where a principal control officer ceases to be appointed to that role. The notice must be served within 14 days of cessation. The notice must contain such particulars as are determined by the Authority. By section 53(2)(e)(iv) it is an offence for a person not to send a notice under this section.
- 27. Paragraph 1(6)(d)(i) amends section 53 of the principal Act which deals with offences in consequence of *clause* 22. The amendments provide for a defence for a person charged with an offence under section 30 for failing to submit a notice in the case of a principal control officer ceasing to be employed where the person in question did not know of the cessation of a person's occupation of that role. Paragraph 1(6)(e) of Schedule 2 makes a principal control officer guilty of an offence where a body corporate commits an offence with that person's consent or connivance or where the offence is attributable to that person's neglect.
- 28. Clause 23 inserts a definition of the expression "principal control officer" into section 54 of the principal Act (interpretation). The term is defined as "an individual working for or on behalf of an insurer, who controls the exercise of functions on behalf of that insurer in relation to risk management, internal audit, internal control or regulatory compliance.
- 29. Clause 24 makes a number of amendments to section 29 of the principal Act. It inserts a reference to "company secretary" into the section. The effect of the amendments is similar to those made by *clause 21* in relation to principal control officers. A notice is required to be served on the Authority when a person is appointed to the role.
- 30. Clause 25 amends section 30 of the principal Act in relation to "company secretary" in ways similar to the changes made by clause 22 in relation to principal control officers. A notice is required to be served on the Authority when a person ceases to be appointed to the role. Paragraph 1(6)(d)(ii) of Schedule 2 is consequential upon the changes made by clause 25. Section 53(2)(e)(iv) already makes it an offence for a person not to send a notice under section 30 and the amendment made by paragraph 1(6)(d)(ii) provides for a defence where a person guilty of an offence in these circumstances did not know of the cessation of employment.
- 31. Clauses 26 and 27 deal with corporate governance. They impose requirements upon authorised insurers and registered insurance managers and intermediaries to establish, implement and maintain corporate governance frameworks. These are regimes designed to ensure that the organisation is soundly and prudently managed.
- 32. Clause 28 makes a presentational change to the wording of section 5 of the principal Act.
- 33. Clause 29 amends section 6 of the principal Act in order to dispense with the requirement to detail in regulations the information to be sent to the Authority in order to ground an application for authorisation as an authorised insurer.



- Under the new regime, the Authority has more latitude and may simply require the information. In addition provision is made for the Authority to permit a person other than the applicant to provide the relevant information.
- 34. Clause 30 amends section 7 of the principal Act. The provision expands the categories of person who must satisfy the Authority about their fitness, allows the Authority to require an applicant for authorisation to give an undertaking about future conduct and makes an amendment to paragraph (b) of the section in order to allow the Authority to require those who manage an applicant for authorisation to have adequate knowledge of the insurance business in question.
- 35. Paragraph 1(6)(a)(i) amends section 53 of the principal Act and is consequential upon the amendment made to section 7 by *clause* 30(4). It provides for breach of the undertaking referred to in that provision to be an offence.
- 36. Clause 31 inserts a new section 10A into the principal Act. This provision allows the Authority to impose requirements on an authorised insurer in relation to the discontinuation of its business where that insurer proposes to surrender its authorisation.
- 37. Clauses 32 and 33 make changes of a presentation nature to sections 23 and 24 of the principal Act. They correspond to the changes made in relation to authorised insurers by Clause 28.
- 38. Clause 34 amends section 25 of the principal Act by allowing a person other than an applicant for registration as an insurance manager or intermediary to provide documents and information where this is agreed by the Authority; by requiring an applicant for registration to be a body corporate; by requiring an applicant for registration to have a manager with an adequate knowledge of the applicant's business. Additionally, the Authority may require an applicant for registration to give an undertaking in relation to its business.
- 39. Paragraph 1(3) of Schedule 2 is consequential upon the change made by *clause* 34. It amends section 17 of the principal Act by imposing a requirement for knowledge about the insurance industry as well as experience of the industry in the case of a registered insurance manager.
- 40. Paragraph 1(6)(b)(i) of Schedule 2 amends section 53 of the principal Act and is consequential upon the changes made by *clause 34* in relation to undertakings. It provides for breach of an undertaking which has been required under section 25(3)(ca) to be an offence.
- 41. Clause 35 repeals subsection (7) of section 26. This amendment removes the requirement for a registered insurance intermediary to re-register annually.
- 42. Clause 36 inserts a new section 26A into the principal Act. This is a provision analogous to section 10A (inserted by clause 31). The provision allows the Authority to impose requirements on a registered insurance manager or intermediary in relation to the discontinuation of its business where such a person proposes to cancel its registration.



- 43. Clause 37 amends section 31 of the principal Act. The effect of the amendment is to allow the Authority to direct an insurance manager or insurance intermediary to maintain specified assets in the Island or keep them in a bank and prohibit them from being removed without the consent of the Authority. The repeal of paragraph (f) in section 53(1) by paragraph 1(6)(a)(iv) and its replacement by a more generally applicable offence under section 53(2) (made by paragraph 1(6)(b)(iv)) are consequential upon this provision.
- 44. Clause 38 adds a new subsection (3) to section 27 of the principal Act. This provides that in any proceedings to wind up an insurance manager or intermediary evidence that the company was insolvent at the close of the period to which the last produced accounts relate is evidence that the company is unable to pay its debts until the contrary is proved.
- 45. Clause 39 amends section 54(1) of the principal Act by substituting the definition of "insurance intermediary". The new provision widens the definition by dispensing with the requirement that an intermediary should be a person who holds an appointment in writing from an insurer. It also requires insurance intermediaries to perform their function for remuneration if they are to fall within the ambit of the definition.
- 46. Clause 40 inserts a new group of sections into the principal Act (sections 29A to 29E) making provision for the imposition by the Authority of prohibition notices. Section 29A provides for the Authority to impose a prohibition notice where it appears to the Authority that an individual is not a fit and proper person to perform any function in relation to an activity carried on by a person to whom the Part applies. The prohibition prevents an individual from performing any function specified in the prohibition either generally or in relation to a particular person. The Authority must give the individual in question the opportunity to make representations before imposing the prohibition. A person commits an offence if the person employs an individual who is the subject of the prohibition to perform a prohibited function. Section 29B sets out the procedure for imposing the prohibition and specifies the information that must be set out in the notice. Section 29C requires the Authority to provide a statement of reasons to the individual prohibited and allows the prohibition to be varied or revoked. Section 29D requires the Authority to maintain and publish a list of prohibitions. Section 29E permits the Authority to serve a written warning notice on a person who is or has been an actuary to an insurer, a director, chief executive, controller, manager or principal control officer of a person to whom the Part applies. A warning notice is a notice stating that the Authority has grounds to believe that the activities specified in the notice are prejudicial to the individual in question's fitness and propriety and may specify action to be taken by that person. A warning notice has effect for a period specified in the notice (up to 3 years) or until such time as the Authority is content that the specified action has been completed. A power is provided to allow the Authority to disclose the circumstances surrounding a warning notice to an employer or potential employer. Paragraph 1(6)(b)(iii) is



- consequential upon the introduction of section 29A. This updates the offence provisions mentioned in section 53(2) of the principal Act.
- 47. Clause 41 amends section 35 of the principal Act and is consequential upon the introduction of prohibition notices in *clause 30*. It provides a power for the Authority to issue a public statement in cases where a person is in contravention of a prohibition and also clarifies the wording of subsection (3) of section 35.
- 48. Clause 42 amends section 38 of the principal Act. This is consequential upon the introduction of prohibition notices in *clause 40*. The amended provision confers powers upon the High Court to grant an injunction where a person has contravened the terms of a prohibition.
- 49. Clause 43 inserts new sections 39A and 39B into the principal Act. Section 39A confers power upon the High Court to appoint a person as receiver of an authorised insurer, registered insurance manager or intermediary at the behest of the Authority. Section 39B confers power upon the Authority to make an order prescribing circumstances in which the Authority may apply to the High Court for the appointment of a person as a business manager to carry on the affairs of an authorised insurer or registered insurance manager or intermediary.
- 50. Paragraph 1(7)(c) of Schedule 2 is consequential upon the change made by the introduction of the new section 39B by *clause 43*. It inserts a new definition of the term "prescribed" into section 54(1) of the principal Act. The new definition's purpose is to take account of the introduction of orders in the new section 39B.
- 51. Clause 44 amends section 33 of the principal Act. It makes a presentational change to the section in order to clarify the powers of the Authority.
- 52. Clause 45 inserts a new paragraph 1A into Schedule 5 to the principal Act. The new provision allows the Authority to appoint an independent expert to investigate persons mentioned in paragraph 1 on its behalf and to make a report. For these purposes the expert may be authorised to exercise the Authority's powers under the Schedule.
- 53. Clause 46 amends Schedule 6 to the principal Act. It adds additional persons to whom the Authority is entitled to make disclosures of restricted information. The additional persons are the Department of Economic Development (in relation to its functions in connection with registration of companies and limited partnerships), the Isle of Man Gambling Supervision Commission, the Collector of Customs and Excise and the Pensions Ombudsman or a Deputy Pensions Ombudsman appointed under Part X of the Pension Schemes Act 1993 (an Act of Parliament).
- 54. Clause 47 amends section 22 of the principal Act in order to allow insurers who are based in jurisdictions other than the Island to carry on non-insurance business in those jurisdictions.



- 55. Clause 48 amends the definition of "senior manager" in section 37 of the principal Act. It broadens the definition in that it now covers an individual working for or on behalf of the person concerned whereas previously it referred only to an employee of the person.
- 56. Clause 49 amends section 47 of the principal Act in relation to fees. An annual fee is introduced for registration as a registered insurance intermediary. Additionally, a new power is introduced to allow the Authority to make regulations in relation to fees which relate to exceptional work that may have to be carried out by it. The Authority is replaced by the Treasury in so far as suing for an unpaid fee is concerned.
- 57. Clause 50 amends section 48 of the principal Act in order to permit the registers of authorised insurers, permit holders, insurance managers and intermediaries to be kept electronically and to permit the holding of records in relation to current and former registered persons. Provision is also made to have copies of a register supplied in legible form in certain circumstances.
- 58. Clause 51 inserts a new section 48A into the principal Act. This provision clarifies the fact that contracts of insurance are not to be regarded as void or unenforceable by reason of section 40 of the *Gaming, Betting and Lotteries Act* 1988.
- 59. Clause 52 amends section 52 of the principal Act. It widens the category of statements whose inclusion in a book or document attracts criminal sanctions. Now misleading statements as well as false statements are caught.
- 60. Paragraph 1(9) in Schedule 2 is consequential upon this.
- 61. Clause 53 inserts a definition of the term "holding company" into section 54(1) of the principal Act.
- 62. Clause 54 amends the definition of the term "insurance business" in section 54(1) of the principal Act. It adds a new paragraph (f) in order to allow the Authority discretion to prescribe particular contracts for this purpose by means of regulations.
- 63. Clause 55 abolishes the Collective Investment Schemes Tribunal, the Retirement Benefit Schemes Tribunal and the Insurance Tribunal and transfers their functions to the Financial Services Tribunal. It has to be read in conjunction with Schedule 1 which makes transitional arrangements in connection with the transfer and Part 2 of Schedule 2 which makes consequential amendments to other legislation in view of the change.
- 64. Clause 56 inserts a new definition of the term "controller" into section 54(1). The level of shareholding which a person is required to possess in order to be classified as a controller is reduced from 15% to 10% and the definition now includes persons who have the power to appoint directors in relation to the relevant company and persons who are able (either alone or in conjunction with others) to exercise significant influence over the management of the company by virtue of a shareholding or entitlement to control voting.



- 65. Clauses 57 and 58 concern regulation making powers and amend Schedule 7 to the principal Act and section 50 of the Act. Inter alia, new powers are conferred to modify the application of the Act to partnerships and other legal entities and to amend the Act itself by means of regulations. Where it is proposed to exercise the power to amend the Act this is subject to the approval of Tynwald. Section 50 of the principal Act is amended in order to achieve this. Clause 58(2) prevents amendments to the procedural mechanism (i.e. the obtaining of prior Tynwald approval) being made by means of regulations.
- 66. Clauses 59, 60, 61 and 62 make minor changes. The definition of "person" contained in the principal Act and the Financial Services Act 2008 is amended so that it includes a body of persons, corporate or unincorporated. Schedule 4 to the principal Act is amended by clause 61 to re-instate provision previously made. Section 105 of the Interpretation Act 2015 is amended by clause 62 for technical reasons.
- 67. Clauses 63 and 64 introduce Schedules 1 (minor and consequential amendments) and 2 (repeals) to the Bill. Schedule 1 makes provision in relation to cases which are before any tribunal abolished by clause 55 and in relation to persons who are members of abolished tribunals at the date of commencement. Schedule 2 makes a number of minor amendments to the principal Act and to other legislation which are consequential upon the coming into operation of the new provisions. Schedule 3 sets out repeals made by the Bill. In the view of the member introducing the Bill it is compatible with the *Human Rights Act* 2001.





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43 44 45 46 PAI 47	Remedies Remedies (appointment of receivers and business managers): sections 39A and 39B inserted	
43 44 45 46 PAI 47	Remedies Remedies (appointment of receivers and business managers): sections 39A and 39B inserted	-
43 44 45 46 PAI 47	Remedies Remedies (appointment of receivers and business managers): sections 39A and 39B inserted	-
43 44 45 46 PAI 47	Remedies Remedies (appointment of receivers and business managers): sections 39A and 39B inserted	-

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A BILL to amend the Insurance Act 2008; and for connected purposes.

BE IT PASSED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

PART 1 - INTRODUCTORY

3 1 Short title

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- The short title of this Act is the Insurance (Amendment) Act 2017.
- 5 2 Commencement
 - (1) This Act, except section 1, section 3 and this section, comes into operation on such day or days as the Isle of Man Financial Services Authority (the "Authority") may by order appoint and different days may be appointed for different provisions and different purposes.
 - (2) An order under subsection (1) may include such supplemental, incidental, consequential and transitional provisions as appear to the Authority to be necessary or expedient.
- 3 Expiry
 - (1) This Act (other than section 55 and Schedule 1) expires
 - (a) on the day after its promulgation, if all of its provisions are in operation on its promulgation; or
 - (b) otherwise, on the day after the last provision is brought into operation.
 - (2) The expiry does not
 - (a) affect the continuing operation of the amendments made by this Act; or
 - (b) revive any provision not in operation when the amendments took effect.



1	4	Interpretation
2		In this Act "the principal Act" means the <i>Insurance Act</i> 2008.
3		PART 2 - CAPITAL REQUIREMENTS
4		Capital requirements
5	5	Capital requirements for authorised insurers: section 12 substituted
6		For section 12 of the principal Act (solvency margins) substitute —
7		"12 Capital requirements
9		(1) Every authorised insurer must establish and maintain the following capital requirements —
10		(a) a minimum capital requirement ("MCR"); and
11		(b) a solvency capital requirement ("SCR"),
12 13		of such amounts as may be prescribed by or determined in accordance with regulations made for the purposes of this section.
141516		(2) Regulations may make provision in relation to the assets to be held by an insurer for the purpose of meeting the requirements mentioned in subsection (1) ("eligible capital resources").".
17 18	6	Duties of authorised insurers and powers of Authority in relation to solvency: sections 12A to 12D inserted
19		After section 12 of the principal Act (capital requirements) insert —
20		"12A No dividend in breach of SCR
21 22		(1) No authorised insurer may declare or pay a dividend or make any distribution to any person other than a policyholder where —
23 24		(a) the eligible capital resources of the authorised insurer have fallen below the SCR; or
252627		(b) the amount of the dividend or distribution would be such as to cause the insurer's eligible capital resources to fall below the SCR.
28 29		(2) Regulations may make provision in relation to what constitutes a dividend or a distribution for the purposes of this section.
30		12B Duty to inform Authority in relation to risks to solvency
31		Where —



In subsection (2), for the words from "within 30 days" to the end



(3)

substitute -

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" _

- (a) within 30 days (where its submission has been required by virtue of section 12C(1)(a)); and
- (b) within 60 days (where its submission has been required by virtue of section 12D(a)).".
- (4) Omit subsection (4).
- (5) For subsection (6) substitute
 - "(6) An insurer must give effect to the scheme
 - (a) in the case of a scheme submitted by virtue of a requirement made under section 12C(1)(a), within 3 months from the date of submission of the scheme; and
 - (b) subject to subsection (6A), in the case of a scheme submitted by virtue of a requirement made under section 12D(a), within 6 months from the date of its submission.
 - (6A) The Authority may extend the period mentioned in subsection (6)(b) to 9 months where the Authority thinks fit.
 - (6B) The insurer must submit reports to the Authority in relation to the implementation of any proposals set out in the scheme at such intervals as the Authority may require.
 - (6C) The Authority may give directions to the insurer in relation to the time
 - (a) within which modifications to a scheme must be proposed by the insurer under subsection (3); and
 - (b) for the implementation of a scheme,

and it is the duty of the insurer to comply with a direction under this subsection.".

- (6) For subsection (7) substitute
 - "(7) If an authorised insurer is unable or fails to submit a scheme which is acceptable to the Authority or fails to give effect to that scheme in accordance with directions given under subsection (6C)(b) —
 - (a) in the case of a scheme submitted under this section by virtue of a requirement made under section 12C(1)(a), the insurer is deemed to be unable to pay its debts for the purposes of section 162 or 307 of the *Companies Act 1931* (as the context requires) and the Authority may apply to wind up the insurer under paragraph 4 of Schedule 3; and
 - (b) in the case of a scheme submitted under this section by virtue of a requirement made under section 12D(a) the Authority may withdraw the insurer's authorisation in accordance with section 10.".

1		(7)		heading to the section for the words "meeting solvency margin" tute "complying with capital requirements".		
3				Abolition of long-term business fund		
4	8	Abolition of requirement to maintain long-term business fund: section 19 repealed				
6		Section repeated		f the principal Act (assets attributable to long-term business) is		
8	9	Abolition of requirements in relation to long-term business fund: section 20 repealed				
10		Secti	on 20 of	the principal Act (use of long-term business assets) is repealed.		
11				Insurer's assets in winding up		
12	10	Insu	rer's ass	sets in winding up: Schedule 3 amended		
13 14		(1)	Schedu as follo	ule 3 to the principal Act (insolvency and winding-up) is amended ows.		
15		(2)	For pa	For paragraph 6 substitute —		
16 17			"6.	Subject to paragraph 6A no insurance company may be wound up voluntarily.		
18 19			6A.	Paragraph 6 does not apply to any prescribed class of insurance companies.".		
20		(3)	For pa	ragraph 7 substitute —		
21				"7. In any winding up of an insurer —		
22 23 24				(a) the insurer's assets to the value of its technical provisions are available only for meeting the obligations of the insurer in relation to its policyholders; and		
21 22 23 24 25 26 27				(b) the insurer's assets other than those mentioned in sub- paragraph (a) are available for meeting any obligation of the insurer.".		
28		(4)	Paragr	raph 8 is omitted.		
29		(5)	O	agraph 10 —		
		()	(a)	omit the words "representing a fund or funds";		
30 31 32			(b)	for the words "long-term business" substitute "technical provisions";		
33 34			(c)	for the words "of that fund or funds" substitute "in respect of its technical provisions"		



1 (6)At the end insert — "Interpretation 2 In this Schedule "technical provisions" means the assets of 3 20. 4 the insurer representing the economic value of the insurer 5 fulfilling its obligations to its policyholders arising over the 6 lifetime of its portfolio of insurance policies.". PART 3 - TRANSFER OF INSURANCE BUSINESS 7 8 Long-term business Requirement for court sanction except where transferor is holder of a 9 11 permit issued under section 22: Schedule 2 amended 10 Schedule 2 to the principal Act (transfer of long-term business) is 11 (1) 12 amended as follows. 13 (2) In paragraph 2(a) after the words "independent actuary" insert "approved by the Authority". 14 In paragraph 6 — 15 (3) 16 for sub-paragraph (a) substitute — (a) where the transferor is an authorised insurer, that the 17 transferee is an authorised insurer;"; 18 (b) in sub-paragraph (c) — 19 for the word "neither" substitute "not"; 20 (i) 21 (ii) omit the words "nor the holder of a permit issued under section 22". 22 23 (4) In paragraph 7 after the words "paragraph 1" insert "(other than a transfer mentioned in paragraph 7A)". 24 25 (5) After paragraph 7 insert — A transfer referred to in paragraph 7 is a transfer from — 26 27 the holder of a permit under section 22 to another such (a) 28 holder; 29 the holder of a permit under section 22 to an overseas (b) 30 insurer; 31 (c) an overseas insurer to the holder of a permit under section 22. 32 7B. 33 Where a transfer between persons in paragraph 7A is proposed 34 but the parties have determined not to seek the sanction of the

1 2				court the transferor must notify the Authority of the proposed transfer.
3			7C.	Where notification takes place under paragraph 7B the Authority may —
5				(a) require the transferor to serve upon it any documents specified by the Authority; and
7				(b) if it thinks fit, direct the transferor to petition for an order sanctioning the scheme under paragraph 1.".
9		(6)	In pai	agraph 13 before sub-paragraph (a) insert —
10 11 12 13			-	"(za) "overseas insurer" means an insurer which is a company incorporated outside the Island and which is carrying on long-term insurance in a country other than the Island in accordance with the laws of that country;".
14				Non-long-term business
15	12	Tran	sfer of	insurance business: section 21 amended
16 17		(1)		on 21 of the principal Act (transfer of insurance business) is ded as follows.
18		(2)		bsection (2) after the words "subject to the" insert "exceptions, ations and".
20				PART 4 - GROUP SUPERVISION
21	13	Grou	ıp supe	ervision of authorised insurers: Part 4A inserted
22 23				n 21 of the principal Act (transfer of insurance business) and before the heading to Part 5 (foreign insurers) insert —
24		I	"PA]	RT 4A — GROUP SUPERVISION
25		21A	Inter	pretation
26			In this	s Part, unless the context otherwise requires —
27 28			"colle	ege of supervisors" means a structure for cooperation and coordination among competent authorities;
29 30			"com	petent authority " means a regulatory authority that is empowered by law to supervise insurers;
31			"desi	gnated insurer" means an insurer designated by the Authority under section 21C(6) in respect of an insurance group;



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"equivalent jurisdiction" means a jurisdiction that has supervisory standards that the Authority determines to be equivalent to those established by or under this Act;

"group actuary" means an individual appointed under section 21I;

"group supervisor" in relation to an insurance group, means the Authority or, as the case may be, another competent authority that is the group supervisor for the insurance group.

21B Insurance group (interpretation)

- (1) For the purposes of this Part an "**insurance group**" means 2 or more undertakings consisting of an authorised insurer and
 - (a) any other undertaking
 - (i) which is the holding company or a subsidiary of the insurer;
 - (ii) which is a subsidiary of that holding company; or
 - (iii) in which that holding company, the insurer or any subsidiary of the insurer or the holding company is entitled to exercise, or control the exercise of, 20 per cent or more of the voting power at a general meeting; or
 - (b) any undertaking other than one mentioned in paragraph(a) which has the power to exercise or actually exercises a dominant influence or control over the authorised insurer.
- (2) For the purposes of this Part **"undertaking"** means any of the following
 - (a) a body corporate;
 - (b) a partnership;
 - (c) an unincorporated association; or
 - (d) a trust,

and references to any undertaking mentioned in paragraphs (a) to (d) include a comparable undertaking incorporated in, formed or established under the law of a country or territory outside the Island.

21C Group Supervisor

- (1) The Authority may, in respect of an insurance group, determine whether it is appropriate for it to be the group supervisor of that group.
- (2) Before making such a determination the Authority must take into account the matters set out in subsection (3).

- (3) Those matters are
 - (a) whether the insurance group is headed by an authorised insurer;
 - (b) where the insurance group is not headed by an authorised insurer whether the insurance group is headed by a holding company which is incorporated in the Island;
 - (c) where the insurance group is headed by a holding company which is not incorporated in the Island, whether the Authority is satisfied that
 - (i) the insurance group is directed and managed from the Island; or
 - (ii) the insurer in the insurance group with the largest balance sheet total is an authorised insurer;
 - (d) whether the principal activity of the group is the carrying on of insurance business;
 - (e) any other matter which may be prescribed.
- (4) The Authority may determine, notwithstanding any other consideration, that it is not appropriate for it to be the group supervisor of an insurance group where the insurance business carried on does not involve liability to third parties.
- (5) The Authority must give notice in writing to the proposed designated insurer of the Authority's intention to make such a determination and must take into account any written representation made by the proposed designated insurer within such period as the Authority may specify in the notice.
- (6) If the Authority makes a determination under subsection (1) that it is appropriate for it to be the group supervisor in respect of an insurance group, the Authority must designate an authorised insurer who is a member of the insurance group to be the designated insurer in respect of that insurance group for the purposes of this Part.
- (7) The Authority must notify the designated insurer for an insurance group and other competent authorities in writing that the Authority is the group supervisor for that insurance group.
- (8) The Authority must establish and maintain a register containing the prescribed particulars in respect of every insurance group of which it is the group supervisor.
- (9) The designated insurer for an insurance group must immediately notify the Authority of any change of the particulars entered in the register in respect of that insurance group.

21D Excluding undertakings from group supervision

- (1) The Authority may, on its own initiative or on the application of the relevant designated insurer, exclude from group supervision any undertaking that is a member of an insurance group if the Authority is satisfied that
 - (a) the undertaking is situated in a country or territory where there are legal impediments to cooperation and exchange of information;
 - (b) the financial operations of the undertaking have a negligible impact on insurance group operations; or
 - (c) the inclusion of the undertaking would be for some other reason inappropriate.
- (2) The Authority must notify the relevant designated insurer and competent authority in writing of any decision to exclude an undertaking from the scope of group supervision.

21E Authority's power to include undertakings within group supervision

- (1) The Authority may, on its own initiative or on the application of the relevant designated insurer, include within group supervision any undertaking that is a member of the insurance group but is not on the register maintained under section 21C(8) if the Authority is satisfied that
 - (a) the financial operations of the undertaking may have a material impact on the insurance group's operations; and
 - (b) the inclusion of the undertaking would be appropriate in the opinion of the Authority.
- (2) The Authority must notify the relevant designated insurer and competent authority in writing of any decision to include an undertaking within the scope of group supervision.

21F Authority's power to withdraw as group supervisor

- (1) The Authority may withdraw as group supervisor—
 - (a) on its own initiative;
 - (b) at the request of a competent authority from an equivalent jurisdiction; or
 - (c) on the application of a designated insurer in respect of the insurance group of which it is a member.
- (2) The Authority must notify the relevant insurance group in writing of its intention to withdraw as group supervisor and must take

into account any written representation made by the insurance group within such period as it may specify in the notice.

- (3) The Authority may withdraw as group supervisor if
 - (a) the Authority considers that it would be appropriate to do so having regard to the structure of the insurance group and the relative importance of the insurance group's insurance business in different countries or territories;
 - (b) the Authority determines that there has been a material change in the structure or operations of the insurance group or an absence of cooperation by other competent authorities; or
 - (c) for any other reason that prevents the Authority from effectively discharging its function as group supervisor for that insurance group.
- (4) The Authority must notify the designated insurer and any other relevant competent authority in writing of any decision made by it under this section.

21G Functions of Authority as group supervisor

The Authority as group supervisor has the following functions with regard to group supervision —

- (a) coordination of the gathering and dissemination of relevant or essential information for going concerns and emergency situations, including the dissemination of information which is of importance for the supervisory task of other competent authorities;
- (b) supervisory review and assessment of the financial situation of insurance groups;
- (c) assessment of compliance of insurance groups with any regulations in relation to solvency and risk concentration and intra-group transactions prescribed by or under this Act;
- (d) assessment of any system of governance in relation to insurance groups prescribed by or under this Act, and whether the persons involved in the management or administration of participating undertakings meet the requirements set out therein;
- (e) planning and coordination, through regular meetings held at least annually or by other appropriate means, of supervisory activities in going concerns as well as in emergency situations, in cooperation with the competent authorities concerned and taking into account the nature,

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- scale and complexity of the risks inherent in the business of all undertakings that are part of insurance groups;
- coordination of any enforcement action that may be taken (f) against insurance groups or any of their members; and
- (g) planning and coordinating, as required, meetings of colleges of supervisors, to be chaired by a representative of the Authority where the Authority acts as the group supervisor, to facilitate the exercise of the functions set out in paragraphs (a) to (f).

Regulations in relation to group supervision

- The Authority may for the purposes of group supervision make regulations applying to designated insurers which take into account, in their case, any activity of the insurance group of which they are members or of other members of the insurance group.
- (2) Without prejudice to the generality of subsection (1), such regulations may make provision for -
 - (a) the assessment of the financial situation of the insurance group;
 - (b) the solvency position of the insurance group;
 - (c) intra-group transactions and risk concentration;
 - (d) the system of governance and risk management of the insurance group; and
 - (e) supervisory reporting and disclosures in respect of the insurance group.
- (3)The Authority in such regulations may in relation to group financial statements require that they be prepared in the English language and that the currency of any amount shown therein be converted to a currency specified by the Authority as at a specified date.

21I Appointment of group actuary

- (1)Where any insurer in an insurance group carries on long-term business the designated insurer for that group must ensure that there is appointed an actuary for the group who is qualified in accordance with section 18(2).
- (2) No appointment shall be made under subsection (1) unless a written notice containing such particulars as may be determined by the Authority is served on the Authority by the insurer concerned within such period as the Authority may require.



- (3) If it appears to the Authority that a person is not a fit and proper person to be appointed as actuary under subsection (1), the Authority may direct that such person shall not, without the written consent of the Authority, be appointed as actuary.
- (4) If it appears to the Authority that a person appointed under subsection (1) is not a fit and proper person to continue as such, the Authority may direct that such person shall not, without the written consent of the Authority, continue in such capacity.
- (5) The Authority shall give written notice to the person concerned of any decision to make a direction under this section.
- (6) Except where the Authority is satisfied that urgent action is necessary, the notice under subsection (5) shall be served on the person not less than 28 days before the date on which the direction is to take effect.
- (7) Any consent by the Authority under subsections (3) or (4) may be—
 - (a) given subject to conditions;
 - (b) varied from time to time; or
 - (c) revoked at any time,

and the Authority shall give written notice to the person concerned of any decision to exercise the powers conferred by paragraph (a), (b) or (c).

- (8) No person shall accept or continue in any appointment referred to in subsection (3) or (4) in contravention of a direction under this section.
- (9) It is the duty of a designated insurer to take care not to appoint or continue the appointment of a person in contravention of a direction under this section.
- (10) Whenever an appointment under subsection (1) comes to an end the designated insurer shall
 - (a) within 14 days of the termination of the appointment, notify the Authority in writing of the termination and the reason for the termination;
 - (b) satisfy the Authority that appropriate arrangements have been made to cover any absence of a person appointed under subsection (1); and
 - (c) as soon as practicable following the termination, ensure that the insurance group makes a new appointment under subsection (1).
- (11) Whenever an appointment under subsection (1) comes to an end the person ceasing to be appointed under that provision shall

- serve a written notice on the Authority containing such particulars as may be prescribed within 14 days of such cessation.
- (12) The Authority may appoint a person qualified in accordance with section 18(2) as actuary to an insurance group where a designated insurer has failed to ensure that an appointment is made under subsection (10)(c) and such appointment shall be deemed to have been made by the designated insurer.
- (13) Where no insurer in an insurance group carries on long-term business regulations may provide for this section to have effect subject to any exception, adaptation or modification specified in the regulations.".

PART 5 - FINANCIAL RISK AND GOVERNANCE

Accounts Accounts

- Time limits for submission of accounts and other documents: section 14 amended
 - (1) Section 14 of the principal Act (accounts) is amended as follows.
 - (2) In subsection (3) at the end insert "or at such other time or times as the Authority may require.".
- 15 Accounting requirements for registered insurance managers and intermediaries: Part 6A inserted

After section 27 of the principal Act (winding up of insurance managers and insurance intermediaries) and immediately before the heading to Part 7 (connected persons) insert —

"PART 6A — REQUIREMENTS FOR REGISTERED INSURANCE MANAGERS AND INSURANCE INTERMEDIARIES

27A Accounts

(1) Unless regulations made in accordance with subsection (2) provide for an alternative system of accounting, the provisions of the *Partnership Act* 1909, the *Companies Acts* 1931 to 2004, the *Limited Liability Companies Act* 1996 and the *Companies Act* 2006 relating to accounts shall have effect in their application to registered insurance managers and insurance intermediaries subject to this Act and to regulations made under this Act.

- 5 6
- (2) Regulations may provide for registered insurance managers and insurance intermediaries to be subject to a system of accounting that shall be adopted in place of that provided for in subsection (1) and for this purpose may require compliance with standards or the adoption of practices recommended by a body specified in the regulations, and may in particular require compliance with standards or the adoption of practices recommended by that body from time to time (that is, after as well as before the making of the regulations).
- (3) A copy of the audited annual accounts of every registered insurance manager and insurance intermediary shall be produced to the Authority within 21 days after the date of the meeting at which the accounts were approved by the board of directors and in any event within 6 months after the close of the year to which they relate or at such other time or times as the Authority may require.
- (4) Such statements, reports, certificates and information as may be required by regulations made under this Act, or required by any other enactment to be annexed or attached to the annual accounts for any purpose shall be produced to the Authority at the same time as the annual accounts are submitted.
- (5) The Authority may exempt in writing a registered insurance manager or insurance intermediary specified in the exemption from any provision contained in regulations made under this Act relating to accounts.".

Actuaries

16 Name of professional body for actuaries: section 18 amended

- (1) Section 18 of the principal Act (actuary) is amended as follows.
- (2) In subsection (2)(a)
 - (a) omit sub-paragraph (i);
 - (b) in sub-paragraph (ii) after the words "of the" insert "Institute and".
- (3) In subsection (3) for the word "prescribed" substitute "determined by the Authority".
- (4) At the end insert
 - "(15) Regulations may provide for the provisions of this section to have effect subject to any exception, adaptation or modification specified in the regulations in relation to authorised insurers who carry on business other than longterm business."

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17 Offence (actuary): section 53 amended

In section 53 of the principal Act (offences) after subsection (6) insert —

"(6A) Where an offence under this Act is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any actuary to an insurer or any person who was purporting to act in such capacity, that person is guilty of that offence and liable to be proceeded against and punished accordingly.".

Auditors

Duty of auditors of authorised insurers to report misconduct: section 15A inserted

After section 15 of the principal Act (auditor) insert —

"15A Auditors to report to Authority

- (1) If the auditor appointed under section 15 becomes aware of any matter which is such as to give the auditor reasonable cause to believe that
 - (a) the authorised insurer who appointed the auditor may be in contravention of
 - (i) this Act; or
 - (ii) any direction or requirement imposed under this Act: and
 - (b) the matter is likely to be of material significance in relation to the Authority's functions under this Act,

the auditor must report such matter in writing to the Authority.

- (2) No statutory or other duty to which an auditor may be subject is contravened by reason of the auditor communicating in good faith to the Authority, whether or not in response to a request made by the Authority, any information or opinion under subsection (1).
- (3) This section applies only to any matter of which the auditor becomes aware in the capacity of auditor and which relates to the business or affairs of the person who appointed the auditor.".

19 Requirement for insurance managers and intermediaries to appoint auditors: section 27B inserted

- (1) The principal Act is amended as follows.
- (2) After section 27A (accounts) (inserted by section 15) insert —

	IIISUIA	ince (An	ienume	TH) BIII 2017
1		"27B	Audi	tor
2		l	(1)	A person mentioned in subsection (2) shall appoint an auditor to that person in accordance with section 29.
4			(2)	The persons are —
5				(a) a registered insurance manager; and
6		ı		(b) a registered insurance intermediary.
7 8 9 10			(3)	A person mentioned in subsection (2) shall give notice in writing to the Authority immediately it receives notice of any resolution intended to be moved at its annual general meeting to appoint as auditor a person other than the retiring auditor or providing expressly that a retiring auditor shall not be appointed.
12 13 14 15			(4)	Where, for any reason, the appointment of an auditor comes to an end the person who made the appointment under subsection (1) and the auditor shall, not more than 14 days after the termination, each give notice in writing to the Authority of the reasons for the termination.".
17 18	20	_		ditors of registered insurance managers and intermediaries isconduct: section 27C inserted
19				27B of the principal Act (auditor) (inserted by section 19) insert —
20		"27C		tors to report to Authority
212223			(1)	If the auditor appointed under section 27B becomes aware of any matter which is such as to give the auditor reasonable cause to believe that —
24 25				(a) the person who appointed the auditor may be in contravention of —
26				(i) this Act; or
27 28				(ii) any direction or requirement imposed under this Act; and
29 30				(b) the matter is likely to be of material significance in relation to the Authority's functions under this Act,
31		-		the auditor must report such matter in writing to the Authority.
32 33 34 35 36			(2)	No statutory or other duty to which an auditor may be subject is regarded as contravened by reason of the auditor communicating in good faith to the Authority, whether or not in response to a request made by the Authority, any information or opinion under subsection (1).



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(3) This section applies only to any matter of which the auditor becomes aware in the capacity of auditor and which relates to the business or affairs of the person who appointed the auditor.".

Principal control officers

Service of notice where principal control officer is appointed: section 29 amended

- (1) Section 29 of the principal Act (connected persons) is amended as follows.
- (2) In subsection (1)
 - (a) after the word "auditor" (in each place where it occurs) insert ", principal control officer";
 - (b) for the word "prescribed" substitute "determined by the Authority";
 - (c) for the word "shorter" substitute "other".
- (3) In subsection (2) after the word "auditor" (in each place where it occurs) insert ", principal control officer".
- (4) In subsection (3)
 - (a) after the word "auditor" (where it occurs in paragraph (a)) insert ", principal control officer";
 - (b) after the word "auditor," (in the text following paragraph (b)) insert "principal control officer,".
- (5) In subsection (9)
 - (a) after the words "this section" insert "and section 29E";
 - (b) in the definition of "manager" for the words "an individual employed by" substitute "a person working for or on behalf of".

Service of notice where principal control officer ceases to be appointed: section 30 amended

- (1) Section 30 of the principal Act (notice of cessation) is amended as follows.
- (2) After the word "auditor," insert "principal control officer,".
- (3) For the word "prescribed" substitute "determined by the Authority".

23 Definition of principal control officer: section 54 amended

In section 54(1) of the principal Act after the definition of "prescribed" insert —

""principal control officer" means an individual working for or on behalf of an insurer, insurance manager or insurance



1 2 3 4 5 6		 intermediary who controls the exercise of functions on behalf of that insurer, manager or intermediary (as the case may be) in relation to — (a) risk management; (b) internal audit; (c) internal control; or (d) regulatory compliance;".
8		Company secretaries
9	24	Service of notice where company secretary appointed: section 29 amended
11 12		(1) Section 29 of the principal Act (connected persons) is amended as follows.
13 14		(2) In subsections (1), (2) and (3) after the word "director," (in each place where it occurs) insert "company secretary,".
15 16	25	Service of notice where company secretary ceases to be appointed: section 30 amended
17 18		(1) Section 30 of the principal Act (notice of cessation) is amended as follows.
19		(2) After the word "director," insert "company secretary,".
20		Corporate governance
21	26	Authorised insurer to have regard to principles of good corporate governance: section 17A inserted
23		After section 17 of the principal Act (management) insert —
24		"17A Corporate governance
25 26 27 28 29 30		Every authorised insurer must establish, implement and maintain an appropriate and effective corporate governance framework in respect of the insurer, which ensures that the insurer is soundly and prudently managed (which includes being soundly and prudently overseen by its board of directors or, if it has no board of directors, its equivalent governing body).".



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27 Insurance manager and intermediary to have regard to the principles of good corporate governance: section 27D inserted

After section 27C of the principal Act (auditors to report to authority) (inserted by section 20) insert —

"27D Corporate governance

Every registered insurance manager and insurance intermediary must establish, implement and maintain an appropriate and effective corporate governance framework, which ensures that the insurance manager or intermediary is soundly and prudently managed (which includes being soundly and prudently overseen by its board of directors or, if it has no board of directors, its equivalent governing body).".

PART 6 - AUTHORISATION OF INSURERS

Authorisation

28 Prohibition on acting as authorised insurer: section 5 amended

- (1) Section 5 of the principal Act (authorised insurers) is amended as follows.
- (2) For subsection (1) substitute
 - "(1) No person, other than a person mentioned in subsection (2) may carry on, or hold itself out as carrying on, insurance business in or from the Island.".

29 Provision of documentation: section 6 amended

- (1) Section 6 of the principal Act (application for authorisation) is amended as follows.
- (2) For subsection (3) substitute
 - '(3) An applicant, or if agreed in writing by the Authority, another person on behalf of the applicant, must provide the Authority with such documents and information as may be required by the Authority.".

30 Requirements for authorisation: section 7 amended

- (1) Section 7 of the principal Act (circumstances where authorisation not granted) is amended as follows.
- (2) In paragraph (a), for the words from "the controller" to the end of that paragraph substitute —



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3			(i) the applicant;(ii) the controller, directors and any chief executive of
4			the applicant; and
5			(iii) in the case of an applicant to carry on long-term
6			insurance business, any actuary to the applicant
7 8			proposed in satisfaction of the requirements of section 18,
9			are fit and proper persons;".
10		(3)	In paragraph (b) —
11			(a) after the words "with adequate" insert "knowledge and"; and
12			(b) at the end omit the word "or".
13		(4)	After paragraph (b) insert —
14 15			"(ba) does not give any undertaking which may reasonably be
15			required by the Authority; or".
16			Surrender of authorisation
17	31	Surre	ender of authorisation by authorised insurers: section 10A inserted
18 19			section 10 of the principal Act (withdrawal of authorisation in respect of pusiness) insert —
20		"10A	Surrender of authorisation by insurer
21		•	Where an authorised insurer proposes to surrender its authorisation the Authority may require the insurer to take such action as appears to the
22			
222324			Authority to be necessary to secure that any insurance business carried on by that insurer is discontinued and wound up.".
25	PA	RT 7	- INSURANCE MANAGERS AND INTERMEDIARIES
26			Registration
27	32	Proh	ibition on acting as insurance manager: section 23 amended
28 29		(1)	Section 23 of the principal Act (insurance managers) is amended as follows.
30		(2)	In subsection (1) —
31			(a) for the words "A person" substitute "No person";
32			(b) for "and" substitute "or";
33			(c) for the words "if that person" substitute "unless that person".



1	33	Pronibition on acting as insurance intermediary: section 24 amended	
2		In section 24 of the principal Act (insurance intermediaries) —	
3		(a) for the words "A person" substitute "No person";	
4		(b) for "and" substitute "or";	
5		(c) for the words "if that person" substitute "unless that person".	
6 7	34	Requirements for registration as insurance manager or intermediary: section 25 amended	
8		(1) Section 25 of the principal Act (registration under Part 6) is amended as follows.	
10 11		(2) In subsection (2) after the words "this Part" insert ", or, if agreed in writing by the Authority, another person on behalf of the applicant,".	
12		(3) In subsection (3) —	
13		(a) _ after paragraph (a) insert —	
14		"(aa) the applicant is a body corporate;";	
15 16		(b) in paragraph (b) omit the words "in the case of an applicant which is a body corporate,";	
17		(c) in paragraph (c) —	
18		(i) after the words "with adequate" insert "knowledge and";	
19		(ii) at the end omit "and";	
20		(d) after paragraph (c) insert —	
21 22		"(ca) the applicant has given any undertaking in relation to its business which may be required by the Authority; and".	
23 24	35	No requirement for annual registration for insurance intermediaries: section 26 amended	
25 26		In section 26 of the principal Act (cancellation or restriction of registration) subsection (7) is omitted.	
27		Cancellation of registration	
28 29	36	Cancellation of registration of insurance managers and insurance intermediaries: section 26A inserted	
30 31		After section 26 of the principal Act (cancellation or restriction of registration) insert —	



"26A Cancellation of registration of registered insurance manager or 1 2 insurance intermediary on request 3 Where a registered insurance manager or insurance intermediary 4 5 proposes to cancel its registration the Authority may require the insurance manager or insurance intermediary to take such action as 6 appears to the Authority to be necessary to secure that any business in 7 respect of which that person is registered under this Part is discontinued 8 and wound up.". 9 Ancillary 10 37 Power of Authority to require insurance managers and intermediaries to maintain assets in Island: section 31 amended 11 12 (1) Section 31 of the principal Act (location of assets) is amended as follows. 13 (2) In subsection (1) after the words "authorised insurer" insert ", registered insurance 14 (a) 15 manager or insurance intermediary"; after the words "the insurer" insert ", insurance manager or 16 (b) insurance intermediary (as the case may be)". 17 18 (3) In subsection (3) after the words "authorised insurer" insert ", registered insurance 19 (a) 20 manager or insurance intermediary"; (b) for the words "the insurer" substitute "the person in question". 21 22 38 Evidence in proceedings for winding up of insurance managers and intermediaries: section 27 amended 23 24 In section 27 of the principal Act (winding up of insurance managers and insurance intermediaries) at the end insert — 25 "(3) In any proceedings to wind up a company on the ground 26 27 mentioned in subsection (2)(a), evidence that a company was insolvent at the close of the period to which the accounts of the 28 company last produced under section 27A(3) relate is to be 29 30 regarded as evidence that the company continues to be unable to pay its debts unless the contrary is proved.". 31 39 Definition of insurance intermediary: section 54 amended 32

In section 54(1) of the principal Act (interpretation) for the definition of "insurance intermediary" substitute —

""insurance intermediary" means a person who for remuneration brings together, either directly or through the agency of a third party,



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with a view to the insurance of risks, persons seeking insurance and insurers and carries out work preparatory to the conclusion of contracts of insurance;".

PART 8 – PROHIBITIONS

Power to impose prohibition

40 Prohibitions: sections 29A to 29E inserted

After section 29 of the principal Act (connected persons) insert —

"29A Prohibitions

- (1) The Authority may impose a prohibition if it appears to the Authority that an individual is not a fit and proper person to perform any function in relation to an activity carried on, or proposed to be carried on, by a person to whom this Part applies.
- (2) Before imposing a prohibition, the Authority must give the individual whom it proposes to prohibit an opportunity to make representations in accordance with section 29B.
- (3) A prohibition may prevent an individual from performing any function specified in the prohibition, either in relation to a particular person to whom this Part applies, or generally.
- (4) A person to whom this Part applies commits an offence if without reasonable excuse that person permits an individual to perform a function which the individual has been prohibited from performing.
- (5) A person who is the subject of a prohibition commits an offence if he or she performs any prohibited function.
- (6) A prohibition operates subject to subsections (7) to (9).
- (7) Notice of a prohibition must be served upon the individual prohibited, either personally or by registered post to the individual's last known address.
- (8) Once it has been served a prohibition comes into operation on
 - (a) the expiry of time for appealing against it under section 45; or
 - (b) if an appeal is brought within that time, on the determination or withdrawal of that appeal.

This subsection is subject to subsection (9).

(9) If the Authority is of the opinion that a prohibition should have immediate effect the notice under subsection (7) must contain a

1 2			statement to that effect together with the reasons for the opinion and the prohibition has effect on the giving of the notice.
3		(10)	A notice of prohibition must —
4			(a) state the terms of the prohibition;
5			(b) state the reasons for imposing the prohibition; and
6	•		(c) give particulars of the right of appeal under section 45.
7	29B	Prohi	bition procedure
9 10	-	(1)	If the Authority proposes to impose a prohibition under section 29A(1), it must give written notice to that effect (a "preliminary notice") to the individual whom it is proposed to prohibit.
11		(2)	The preliminary notice must —
12			(a) state that the Authority proposes to impose a prohibition;
13			(b) state the terms of the proposed prohibition;
14			(c) state the grounds for imposing the prohibition;
15			(d) state that within 28 days the individual proposed to be
15 16 17 18			prohibited may make representations to the Authority in such manner as the Authority may specify in the preliminary notice; and
19 20 21			(e) give particulars of the right of appeal under section 45 that would be exercisable if the Authority imposed the prohibition.
22	I	(3)	The Authority must have regard to any representations made in accordance with subsection (2)(d) before imposing a prohibition.
24	29C	Prohi	bitions: variation and revocation
25 26	I	(1)	On the application of a prohibited person, the Authority may vary or revoke a prohibition.
27 28 29	I	(2)	The Authority must give the prohibited person a statement of its reasons for any decision made on an application under subsection (1).
30	29D	List o	f prohibitions
31		(1)	The Authority must maintain and publish a list of prohibitions.
32 33		(2)	The list must specify the individual prohibited and the functions to which the prohibition applies.
34	29E	Warn	ing notices
35	I	(1)	The Authority may —



- (a) before making a direction under section 29(3);
- (b) before imposing a prohibition under section 29A(1); or
- (c) in any other circumstances that the Authority considers it appropriate to do so,

give a written warning notice under this section to a person who is or has been an actuary to an insurer, or a director, company secretary, chief executive, controller, manager or principal control officer ("the relevant person") of a person to whom this Part applies.

- (2) A warning notice under this section is a notice that the Authority has grounds to believe that such activities or circumstances as are specified in the notice are prejudicial to the relevant person's fitness and propriety and must be accompanied by a statement of the reasons for the giving of the notice.
- (3) A warning notice may (but need not)
 - (a) propose that the relevant person take such action as is specified in the notice;
 - (b) request the relevant person to propose action; or
 - (c) specify action that the relevant person must take and the time within which it must be taken.
- (4) Where a warning notice has been given under this section, the Authority must, before making a direction under section 29(3), or imposing a prohibition under section 29A(1), take into account any action taken by the relevant person in response to the warning notice.
- (5) The giving of a warning notice under this section
 - (a) does not limit the powers of the Authority under section 29 or 29A; and
 - (b) is not required before the Authority may exercise those powers.
- (6) A warning notice issued under this section has effect
 - (a) for a period of up to 3 years from the date on which it is issued under subsection (1) and such period must be specified in the notice; or
 - (b) until such time as the Authority is content that any action under subsection (3) has been completed to its satisfaction.
- (7) The Authority may disclose the circumstances surrounding a warning notice, to
 - (a) an employer who currently employs a relevant person;
 - (b) a person who has received an employment application from a relevant person and who, if successful in the

1 2 3 4 5 6 7 8 9 10			application, would be required to be an actuary to an insurer or a director, company secretary, chief executive, controller, manager or principal control officer of a person to whom this Part applies; or (c) a company of which a relevant person is, or is likely to become an officer. (8) In subsection (7) — "officer" (except in relation to "principal control officer") means an officer of a company for the purposes of the Company Officers (Disqualification) Act 2009 (see section 1(2) of that Act).".
11			Contravention of prohibition
12	41		er to issue of public statement where contravention of prohibition: on 35 amended
14		(1)	Section 35 of the principal Act (public statements) is amended as follows.
15 16		(2)	In subsection (1)(b) after the words "any condition" insert "or prohibition".
17 18		(3)	In subsection (3) after the words "public statement" insert "or passing information".
19	42	Iniur	nction where contravention of prohibition: section 38 amended
20		(1)	Section 38 of the principal Act (injunctions) is amended as follows.
21		(2)	In subsection (1) —
22		()	(a) in paragraph (a) for "or" substitute ", ";
23 24			(b) at the end of paragraph (a) insert "or any prohibition under section 29A(1);";
25 26			(c) in paragraph (b) and (c) after the words "such provision" insert "or prohibition".
27 28	PA	ART 9	– REMEDIES AND INVESTIGATIONS (ANCILLARY POWERS)
29			Remedies
30 31	43		edies (appointment of receivers and business managers): sections and 39B inserted
32		After	section 39 of the principal Act (restitution orders) insert —



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"39A Appointment of receiver

- (1) This section and section 39B apply to
 - (a) an insurer;
 - (b) an insurance manager; and
 - (c) an insurance intermediary.
 - (2) The Authority may present a petition to the High Court for the appointment of a receiver under section 42 of the *High Court Act* 1991 in respect of the affairs, business and property of a person to whom this section applies.
 - (3) If the High Court is satisfied that
 - (a) the appointment is in the public interest;
 - (b) the appointment is necessary to protect the interests of customers, creditors or others who have or have had dealings with the person;
 - (c) the appointment is necessary for the orderly winding up of the business undertaken by the person; or
 - (d) the appointment is necessary so that the affairs, and property relating to the former business undertaken by the person may be settled or disposed of in an orderly manner,

it may appoint a suitable person as receiver.

- (4) On the presentation or hearing of a petition the Court may dismiss it, or adjourn the hearing conditionally or unconditionally, or make an interim order or any other order that it thinks fit.
- (5) Without prejudice to the generality of subsection (4), an interim order under that subsection may be made ex parte and may restrict (whether by reference to the consent of the Court or otherwise) the exercise of any powers of
 - (a) the person; or
 - (b) if the person is a body corporate, its directors,

in respect of the affairs, business and property of that person.

(6) This section is without prejudice to the generality of the jurisdiction of the High Court under section 42 of the *High Court Act* 1991, or under any other enactment or at common law.

39B Appointment of business manager

(1) The Authority may, by order, prescribe circumstances in which the Authority may apply to the High Court for the appointment by the Court of a person as a manager to manage the affairs of a



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		person to whom this section applies in so far as those affairs relate to the carrying on of the person's business.
	(2)	An order made under subsection (1) —
		(a) may contain such incidental or supplementary provisions as the Authority considers necessary or expedient, and may contain different provisions for different types of business; and
	1	(b) must be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which the order is laid, or at the next following sitting, resolves that it must be annulled, the order ceases to have effect from that time.
	(3)	Before making an order under this section the Authority shall consult with the Treasury and such other organisations and persons as appear to it to be likely to be affected by the proposed order.
	(4)	The Court may, on an application made to it by the Authority in circumstances prescribed in an order made under subsection (1), appoint, on such terms as it considers to be appropriate, a person to manage the affairs of a person to whom this section applies in so far as those affairs relate to the carrying on of the person's business.
	(5)	The Court may make such orders as are necessary to give effect to the appointment of a manager under this section and for dealing with any property connected with the person's business.".
44 Res	sidual po	ower to impose requirements: section 33 amended
(1)		on 33 of the principal Act (residual power to impose requirements) ended as follows.
(2)		osection (1) after the words "take such action" insert "or to refrain taking such action".
		Investigation
45 Au	thority's	power to appoint independent expert: Schedule 5 amended
(1)	Sched as foll	tule 5 to the principal Act (inspection and investigation) is amended lows.
(2)	After	paragraph 1 insert —
		"Appointment of expert
· 	1A.	The Authority may appoint an independent expert to investigate

the business of any person mentioned in sub-paragraphs (a) to (i) $\,$



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and (k) to (l) of paragraph 1(1) or of a scheme mentioned in subparagraph (j) of that paragraph and to report to the Authority in such manner as the Authority may direct, on that person's affairs or on that scheme and for the purposes of this paragraph the Authority may authorise that independent expert to exercise on its behalf all or any of the powers conferred by or under this Schedule.".

(3)In paragraph 2(1) after the words "any information" insert "within such time and by such individual as the Authority may require".

46 Disclosure of information: Schedule 6 amended

- (1) Schedule 6 to the principal Act (restrictions on disclosure of information) is amended as follows.
- In paragraph 2(1) at the end insert (2)
 - for the purpose of enabling or assisting the Department of Economic Development in the discharge of its functions in relation to the registration of companies and limited partnerships;
 - (w) for the purpose of enabling or assisting the Isle of Man Gambling Supervision Commission in the discharge of its functions under enactments relating to all forms of gambling;
 - (x) for the purpose of enabling or assisting the Collector of Customs and Excise to discharge the Collector's functions under enactments relating to customs and excise or in relation to any assigned matter as defined in section 184 of the Customs and Excise Management Act 1986;
 - for the purpose of enabling or assisting the Pensions (y) Ombudsman or a Deputy Pensions Ombudsman appointed under Part X of the Pension Schemes Act 1993 (an Act of Parliament) in the discharge of that person's functions.".

PART 10 – MISCELLANEOUS

Foreign insurers

- Permission for foreign insurer to carry on non-insurance business away 47 from Island: section 22 amended
 - (1)Section 22 of the principal Act (foreign insurers) is amended as follows.
 - (2) In subsection (2) —

1			(a) after "6(3)," insert "7,";
2			(b) after "10," insert "10A,";
3			(c) omit the words ", 16".
4		(3)	After subsection (2) insert —
5 6 7			"(2A) Section 16 has effect in relation to persons who are the holders of permits issued under this section as it applies to authorised insurers but with the omission of the words "or elsewhere,".".
8			Senior manager
9	48	Defi	nition of senior manager: section 37 amended
10		(1)	Section 37 of the principal Act (civil penalties) is amended as follows.
11		(2)	In subsection (9) for the words "an employee" (wherever occurring) substitute "an individual working for or on behalf".
13			Fees
14	49	Payn	nent and recovery of fees: section 47 amended
15		(1)	Section 47 of the principal Act (fees) is amended as follows.
16		(2)	In subsection (1) —
17 18			(a) after paragraph (g) (and immediately before the words "as the case may require") insert —
19 20			"(h) by each registered insurance intermediary annually on such date in each year as may be prescribed,";
21			(b) at the end of paragraph (f) omit the word "and";
22			(c) in paragraph (g) for the words "25," substitute "25; and".
23		(3)	After subsection (1) insert —
242526272829			"(1A) Regulations may provide for the payment to the Authority of such fees, in connection with the discharge of any of its functions under this Act, as it considers will (taking account of its expected income from fees and charges provided for by any other provision of this Act) enable it to meet expenses incurred in carrying out those functions or for any incidental purpose."
30		(4)	In subsection (2) —
31			(a) for the words "(d) and" substitute "(d),";
32			(b) after the word "(f)" insert "or (h)";
33			(c) for the word "Authority" (in both places) substitute "Treasury".



1			Registers
2	50	Regis	sters to be kept in electronic form: section 48 amended
3		(1)	Section 48 of the principal Act (registers) is amended as follows.
4		(2)	In subsection (1) —
5			(a) after the words "registers of" insert "former and current";
6			(b) in paragraph (b) omit the word "the";
7			(c) in paragraphs (c) and (d) at the beginning of each insert the word "registered";
9			(d) for the words "such form and which" substitute "electronic form and the registers".
11		(3)	Omit subsection (2).
12		(4)	For subsection (3) substitute —
13 14			"(3) The registers must be made publically available on the Authority's website or by such other means as may be prescribed.
15 16 17			(4) If reasonably requested to do so by any person, the Authority must supply that person with a copy of a register or any part of it in a legible form.".
18			Status of insurance contracts
19 20	51		rance contracts not to be regarded as gaming or wagering: section inserted
21		After	section 48 (registers) insert —
22		"48A	Insurance contracts not to be regarded as gaming or wagering contracts
24252627		1	For the avoidance of doubt, no contract of insurance is void or unenforceable by reason of section 40 of the <i>Gaming, Betting and Lotteries Act 1988</i> and any security given in respect of such a contract is not illegal consideration for the purposes of section 41 of that Act.".
28			False or misleading statements
29	52	False	or misleading statements: section 52 amended
30 31			ection 52 of the principal Act (false statements, etc.) (and in the heading to ection) after the word "false" wherever it occurs insert "or misleading".



1		Holding company
2	53	Definition of holding company: section 54 amended
3		In section 54(1) of the principal Act (interpretation) after the definition of "financial crime" insert —
5		""holding company" is construed in accordance with the definition of subsidiary;".
7		Insurance business
8	54	Definition of insurance business: section 54 amended
9		In section 54(1) of the principal Act (interpretation) in the definition of "insurance business" after paragraph (e) insert —
11 12		"(f) the effecting or carrying out of any prescribed contract in any prescribed circumstances;".
13		Abolition of tribunals and transfer of functions
14	55	Transfer of functions (tribunals)
15 16		(1) The functions of the following tribunals are transferred to the Financial Services Tribunal —
17		(a) the Collective Investment Schemes Tribunal;
18		(b) the Retirement Benefits Schemes Tribunal;
19		(c) the Insurance Tribunal.
20		(2) The tribunals mentioned in subsection (1)(a), (b) and (c) are abolished.
21		(3) Schedule 1 (transitional arrangements (tribunals)) has effect.
22		Controller
23	56	Definition of controller: section 54 amended
24 25		In section $54(1)$ of the principal Act (interpretation) in the definition of "controller" —
26		(a) at the end of paragraph (c) omit the word "or";
27 28		(b) in paragraph (d), for the words "15 per cent" substitute "10 per cent";
29		(c) after paragraph (d) insert —
30 31		"(e) a person who either alone or with any associate or associates is able to exercise a significant influence over the



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management of the person or of another body corporate of which the person is a subsidiary by virtue of —

- (i) a holding of shares in; or
- (ii) an entitlement to exercise, or control the exercise of, the voting power of,

the person concerned; or

(f) a person who has the power to appoint directors to the board or other executive committees of the person and to remove them;".

Regulations

57 Powers to make regulations: Schedule 7 amended

In Schedule 7 to the principal Act (matters in respect of which regulations may be made) —

- (a) after paragraph 1 insert
 - "1A. Subject to paragraph 1B, provisions amending this Act in any manner specified in the regulations.
 - 1B. Regulations under paragraph 1 may not amend section 50(5).";
- (b) in paragraph 2 after the word "exemption" insert "(whether subject to conditions or otherwise)";
- (c) after paragraph 5 insert
 - "5A. Provisions permitting the Authority to exercise a discretion in respect of any matter specified in the regulations.";
- (d) after paragraph 8 insert
 - "8A. The application of the Act to partnerships, limited liability partnerships, protected cell companies (within the meaning of the *Protected Cell Companies Act* 2004), companies incorporated under the *Companies Act* 2006, incorporated cell companies (within the meaning of the *Incorporated Cell Companies Act* 2010) or incorporated cells (within the meaning of that Act) with such exceptions, adaptations and modifications as may be specified in the regulations.";
- (e) after paragraph 14 insert
 - "14A. The publication of such information as may be prescribed.".

58 Procedure for regulations: section 50 amended

(1) Section 50 of the principal Act (regulations) is amended as follows.

1 2		` '	ubsection (4) after the word "Regulations" (where it first appears) rt "(other than regulations under paragraph 1A of Schedule 7)".
3			he end insert —
4 5 6		(6)	"(5) Regulations under paragraph 1A of Schedule 7 shall not come into operation unless they are approved by Tynwald.".
7			Minor amendments
8	59	Definition	n of person: section 54 amended
9			54(1) of the principal Act (interpretation) after the definition of "long- ance contracts" insert —
11 12			""person" includes any body of persons, corporate or unincorporate;".
13 14	60	Definition amended	n of person: section 48 of the Financial Services Act 2008
15 16			8 of the <i>Financial Services Act</i> 2008 (interpretation) after the definition red person" insert —
17 18			""person" includes any body of persons, corporate or unincorporate;".
19 20	61	Continuation amended	tion and discontinuation of insurance companies: Schedule 4
21 22			le 4 to the principal Act (continuation and discontinuation of companies) after paragraph 9 insert —
		"10.	In each of the following provisions of the 1998 Act —
232425262728			(a) section 2 (application for consent to be continued in the Island);
26			(b) section 3 (consent);
27			(c) section 8 (application for consent for discontinuance);
28			(d) section 9 (grant of consent); and
29			(e) section 10(1)(a) (documents to be filed),
30 31			references to "the Department" shall be construed as references to "the Authority"."

62 Saving provision: section 105 of the Interpretation Act 2015 amended

In the table in section 105 of the *Interpretation Act 2015* (repeal of provisions) omit the entry referring to Schedule 10 to the *Insurance Act 2008*.



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Supplemental

- **2** 63 Minor and consequential amendments
- 3 Schedule 2 (minor and consequential amendments) has effect.
- 4 64 Repeals
- The provisions mentioned in column 1 of the table in Schedule 3 (repeals) are repealed to the extent mentioned in column 2.
- 7

1			SCHEDULE 1			
2		TRANSITIONAL ARRANGEMENTS (TRIBUNALS)				
3			[Section 55]			
4	1.	Inte	rpretation of Schedule			
5 6 7		tribu	nis Schedule " transfer date " means the date on which the functions of a mal mentioned in section 55(1)(a), (b) and (c) are transferred to the Financial ices Tribunal by that provision.			
8	2.	Tran	nsitional and saving provisions			
9 10 11 12		(1)	Any proceedings before any tribunal mentioned in section 55(1)(a),(b) and (c) which are pending immediately before the transfer date shall continue on and after the transfer date as proceedings before the Financial Services Tribunal.			
13 14		(2)	The following subsections apply where proceedings are continued in the Financial Services Tribunal by virtue of subsection (1).			
151617		(3)	Where a hearing began before the transfer date but was not completed by that date, the Financial Services Tribunal must be comprised for the continuation of that hearing of the persons who began it.			
18 19 20 21		(4)	The Financial Services Tribunal may give any direction to ensure that proceedings are dealt with fairly and, in particular, may apply or disapply any provision in rules made under section 8 of the <i>Tribunals Act</i> 2006 which applied to the proceedings before the transfer date.			
22 23 24		(5)	Any direction or order given or made in proceedings which is in force immediately before the transfer date remains in force on and after that date as if it were a direction or order of the Financial Services Tribunal.			
25 26		(6)	A time period which has started to run before the transfer date and which has not expired shall continue to apply.			
272829		(7)	An order for costs may only be made if, and to the extent that, an order for costs could have been made by a tribunal mentioned in section 55(1)(a), (b) and (c) before the transfer date.			
30		(8)	Sub-paragraph (9) applies where —			
31 32 33			(a) an appeal lies to the High Court from any decision made by the tribunals mentioned in section 55(1)(a),(b) and (c) before the transfer date;			
34			(b) the right of appeal has not been exercised;			
35 36			(c) the time to exercise that right of appeal has not expired prior to the transfer date.			



- (9) In the circumstances set out in sub-paragraph (8), section 32(7) of the *Financial Services Act* 2008 applies as if the decision were a decision made on or after the transfer date by the Financial Services Tribunal.
- (10) Any case to be remitted by the High Court on or after the transfer date and which, if it had been remitted before the transfer date, would have been remitted to a tribunal mentioned in section 55(1)(a),(b) and (c) shall be remitted to the Financial Services Tribunal.
- (11) A decision made by a tribunal mentioned in section 55(1)(a),(b) and (c) before the transfer date is to be treated on or after the transfer date as a decision of the Financial Services Tribunal.
- (12) The functions transferred by section 55 are to be exercised as regards all appeals to those tribunals whether made before or after the transfer.
- (13) A person who immediately before section 55 comes into operation is a member of a tribunal mentioned in subsection (1)(a), (b) or (c) becomes a member of the Financial Services Tribunal for the purposes of any matter referred to in this Schedule.

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2			SCHEDULE 2
3			MINOR AND CONSEQUENTIAL AMENDMENTS
4			[Section 63]
5	PA	RT 1 -	MINOR AND CONSEQUENTIAL AMENDMENTS TO THE PRINCIPAL ACT
7	1	Ame	ndments to the principal Act
8		(1)	The principal Act is amended as follows.
9		(2)	In the cross-heading immediately before section 12 for the word "Solvency" substitute "Capital requirements".
11		(3)	In section 17 after the words "with adequate" insert "knowledge and".
12		(4)	In section 40 for the words "sections 38 and 39" substitute "sections 38, 39 , $39A$ and $39B$ ".
14		(5)	In section 47 (fees) —
15			(a) in subsection (1) after paragraph (a) insert —
16 17 18			"(aa) by each designated insurer (within the meaning given by section 21A) annually on such date in each year as may be prescribed;";
19			(b) in subsection (2) after the words "subsection (1)" insert "(aa),".
20		(6)	In section 53 (offences) —
21			(a) in subsection (1) —
22			(i) before paragraph (a) insert —
23			"(za) the terms of an undertaking given under section 7(ba);";
24			(ii) after paragraph (a) insert —
25			"(aa) a requirement to notify the Authority under section 12B;
26			(ab) a direction under section 13(6C);";
27			(iii) at the end of paragraph (b) insert "or";
28			(iv) omit paragraphs (d), (e) and (f);
29			(b) in subsection (2)(e) —
30			(i) in paragraph (e) before sub-paragraph (i) insert —
31 32			"(zi) the terms of an undertaking given under section 25(3)(ca);";
33			(ii) after sub-paragraph (ii) insert —



1 2			"(iia) section 27A(3) or (4), subject to any exemptions granted under section 27A(5);";
3			(iii) after sub-paragraph (iii) insert —
4			"(iiia) section 29A(4) or (5);";
5			(iv) after sub-paragraph (iv) insert —
6			"(iva) a direction under section 31(1);";
7			(v) after sub-paragraph (vii) insert —
8			"(viia) paragraph 7B of Schedule 2;
9			"(viia) paragraph 7B of Schedule 2;(viib) a requirement to notify the Authority under paragraph 7C(a) of Schedule 2;(viic) a direction under paragraph 7C(b) of Schedule 2;";
11			(viic) a direction under paragraph 7C(b) of Schedule 2;";
12		(c)	after subsection (2) insert —
131415			"(2A) An auditor commits an offence where the auditor fails to report a matter to the Authority in accordance with section 15A(1) or 27C(1).";
16		(d)	In subsection (5) —
17			(i) after the word "auditor," insert "principal control officer,";
18			(ii) after the word "director," insert "company secretary,";
19 20		(e)	In subsection (6) after the word "secretary" insert ", principal control officer".
21	(7)	In sec	ction 54(1) of the principal Act (interpretation) —
22		(a)	the definition of "long-term business fund" is omitted;
23		(b)	in the definition of "annual accounts" —
24			(i) after the words "14(1)" insert "or 27A(1)";
25			(ii) after the words "14(2)" insert "or 27A(2)";
26		(c)	for the definition of "prescribed" substitute —
27			""prescribed" means —
28			(a) in relation to section 39B, prescribed by order; and
29 30			(b) in relation to any other provision, prescribed by regulations;".
31	(8)	In Scl	hedule 3 —
		(a)	in paragraph 4(a) after the words "Companies Act 1931" insert ", section 12C(2)";
32 33 34 35		(b)	in the heading to paragraph 6 omit the words "with long-term business".
36 37	(9)	-	aragraph 3(7) of Schedule 5 after the word "false" insert "or ading".



(10)In Schedule 7 (matters in respect of which regulations may be made), in 2 paragraph 21 for the words "margins of solvency" substitute "capital 3 requirements". PART 2 – AMENDMENTS (TRIBUNALS) 4 2 Legal Aid Act 1986 5 6 In Part 1 of Schedule 1 to the Legal Aid Act 1986 omit paragraphs 5D and 5E. Retirement Benefits Schemes Act 2000 3 7 8 In section 38 of the Retirement Benefits Schemes Act 2000 — 9 subsections (1), (2) and (7) are omitted; (a) (b) in subsection (3) for the words "the Tribunal" substitute "the 10 Financial Services Tribunal (in this Act referred to as "the 11 Tribunal")"; 12 in subsection (6) for the words "subsection (7)" substitute "section 13 (c) 32(7) of the Financial Services Act 2008"; 14 15 (d) in the heading to the section for the words "Retirement Benefits Schemes Tribunal" substitute "Financial Services Tribunal". 16 Tribunals Act 2006 17 4 In Part 2 of Schedule 2 to the *Tribunals Act* 2006 omit paragraphs 6, 9 and 10. 18 5 **Principal Act** 19 The principal Act is amended as follows. 20 (1) In section 45 — 21 (2) 22 subsections (1), (2) and (7) are omitted; (a) in subsection (3) for the words "Insurance Tribunal" substitute 23 (b) "Financial Services Tribunal"; 24 25 (c) in subsection (6) — 26 for the words "subsection (7)" substitute "section 32(7) of (i) the Financial Services Act 2008"; 27 for the words "Insurance Tribunal" substitute "Financial 28 (ii) Services Tribunal": 29 in the heading to the section for the words "Insurance Tribunal" 30 (d) substitute "Financial Services Tribunal". 31 32 (3) In section 54(1) —

at the appropriate place in alphabetical order insert —



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- ""Financial Services Tribunal" means the Tribunal established under section 32 of the Financial Services Act 2008;";
- omit the definition of "Insurance Tribunal"; (b)
- omit the definition of "Retirement Benefits Schemes Tribunal". (c)
- (4) In Schedule 6 in paragraph 2(1)(u) for the words from "the following" to the end substitute "the Financial Services Tribunal to carry out its functions (regardless of the enactment under which the function is conferred).".

Collective Investment Schemes Act 2008

- (1) The Collective Investment Schemes Act 2008 is amended as follows.
- In section 11A(4)(b)(iii) omit the words "constituted under section 21". (2)
- (3) In section 21
 - subsections (1), (2) and (7) are omitted; (a)
 - (b) in subsection (3) after the words "may appeal" insert "to the Financial Services Tribunal";
 - in subsection (6) for the words "subsection (7)" substitute "section (c) 32(7) of the Financial Services Act 2008".
- In section 26, in the definition of "Tribunal" for the words "the Collective (4) Investment Schemes Tribunal established under section 21" substitute "the Financial Services Tribunal established under section 32 of the Financial Services Act 2008.".

Financial Services Act 2008

- The Financial Services Act 2008 is amended as follows. (1)
- In section 33(5) omit paragraphs (e), (f) and (h). (2)
- (3) In Schedule 5 in paragraph 2(1)(t) for the words from "the following" to the end substitute "the Financial Services Tribunal to carry out its functions (regardless of the enactment under which the function is conferred).".

8 Designated Businesses (Registrations and Oversight) Act 2015

In paragraph 1(1)(m) of Schedule 2 to the Designated Businesses (Registration and Oversight) Act 2015 for the words from "the following" to the end substitute "the Financial Services Tribunal to carry out its functions (regardless of the enactment under which the function is conferred).".



1 SCHEDULE 3

REPEALS

3 [Section 64]

Act	Extent of repeal				
Legal Aid Act 1986	In Part 1 of Schedule 1, paragraphs 5D and 5E.				
Retirement Benefits Schemes	In section 38, subsections (1), (2) and (7).				
Act 2000					
Tribunals Act 2006	In Part 2 of Schedule 2, paragraphs 6, 9 and 10.				
The principal Act	At the end of section 7(b), the word "or".				
	Section 13(4).				
	In section 18(2)(a), sub-paragraph (i).				
	Section 19.				
	Section 20.				
	In section 22(2), the words ", 16".				
	In section 25(3) —				
	(a) in paragraph (b), the words "in the case of an applicant who is a body corporate";				
	(b) in paragraph (c), at the end the word "and".				
	In section 26, subsection (7).				
	In section 45, subsections (1), (2) and (7).				
	In section 47(1), at the end of paragraph (f) the word "and".				
	In section 48 —				
	(a) in subsection (1)(b), the word "the";				
	(b) subsection (2).				
	In section 53(1), paragraphs (d), (e) and (f).				
	In section 54(1) —				
	(a) at the end of paragraph (c) in the definition of "controller" the word "or";				
	(b) the definition of "Insurance Tribunal";				
	(c) the definition of "long-term business fund";				
	(d) the definition of "Retirement Benefits Schemes Tribunal".				



	In Schedule 2, in paragraph 6 the words "nor the holder of a permit issued under section 22".		
	In Schedule 3 —		
	(a) in the heading to paragraph 6 the words "with long-term business";		
	(b) paragraph 8;		
	(c) in paragraph 10, the words "representing a fund or funds".		
Collective Investment	In section 11A(4)(b)(iii), the words "constituted under		
Schemes Act 2008	section 21".		
	In section 21, subsections (1), (2) and (7).		
Financial Services Act 2008	In section 33(5), paragraphs (e), (f) and (h).		
Interpretation Act 2015	In section 105 in the table, the entry referring to		
	Schedule 10 to the Insurance Act 2008.		

IN THE KEYS

INSURANCE (AMENDMENT) BILL 2017

A BILL to amend the Insurance Act 2008; and for connected purposes.

Approved by the Council of Ministers for introduction in the House of Keys.

MR CANNAN

JANUARY 2017