

Insurance Act, 2049 (1992)

Date of Authentication and publication

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Act No. 42 the year of 2049 (1992).

Preamble : Whereas, it is expedient to establish an Insurance Board to systematize, regularize, develop and regulate the Insurance Business,

In the twenty- first year of the regime of HIS MAJESTY KING BIRENDRA BIR BIKRAM SHAHDEVA, the Parliament has made this Act.

Chapter - 1

Preliminary

1. **Short Title and Commencement** : (1) This Act may be called the "Insurance Act, 2049" (1992).

(2) It shall come into force on such dates as Government of Nepal, by notification publish in the Nepal Gazette, may appoint.®

2. **Definition** : Unless the subject or context otherwise requires, in this Act,

® This Act came into force on 2049.12.17 (1 April,1993) by a notification published in the Nepal Gazette dated 2049.12.17.

- (a) "Board" means the Insurance Board constituted pursuant to Section 3.
- (b) "Chairperson" means the Chairperson of the Board.
- (c) "Member" means the Member of the Board and the word includes the Chairperson.
- (d) "Insurer" means a corporate body registered pursuant to Section 10 and the word includes the re-insurer.
- (e) "Insurance Business" means Life Insurance Business or Non-Life Insurance Business and the word includes the re-insurance.
- (f) "Life Insurance Business" means the business relating to a contract regarding to the life of any person under which he/she or his/her heir in the event of his/her death, will be paid a particular amount in case a specified amount is paid in installment on the basis of his/her age.
- (g) "Non-Life Insurance Business" means other Insurance Business other than the Life Insurance Business.
- (h) "Re-Insurance Business" means re-insuring the portion of the risk which is excess of the risk to be hold by the Insurer.
- (i) "Insurance Policy" means a document mentioning the rights and liabilities relating to the contract of the Insurance.
- (j) "Actuary" means a person having the qualification as prescribed and is appointed by the Insurer for assessing and calculating the liabilities of the Insurance Business.
- (k) "Insured" a person or organization holding a Life Insurance and Non-Life Insurance Policy.

- (l) "Insurance Agent" means a person other than a salaried employee of an Insurer who has obtained a license pursuant to Section 30, to work on behalf of the Insurer on the basis of commission.
- (m) "Surveyor" means a person who has obtained a license pursuant to *Section 30A, to make a financial valuation of the destroyed property and the word includes an adjuster and a person who makes a valuation of losses.
- #(m1) "Broker" means a person who has obtained license pursuant to Section 30B, to work as an intermediary between an Insurer and Insurer relating to the Insurance Business.
- (n) "Auditor" means an auditor who has obtained a license to audit pursuant to prevailing law.
- *(o) "Fiscal Year" means the period beginning from 1st day of *Shravan* to last day of *Ashadh* of each year.
- (p) "Prescribed" or "As prescribed" means prescribed or as prescribed in the Rule made under this Act.

Chapter - 2

Formation and Management of the Board

- 3. Formation of the Board:** (1) An Insurance Board shall be formed to systematize, regularize, develop and regulate the Insurance Business.

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(2) The Board pursuant to Sub-section (1) shall consists of the following Members:

- (a) A person nominated or designated
by the Nepal Government – Chairperson
- (b) Representative, Ministry of Law,
Justice and Parliamentary Affairs – Member
- (c) Representative, Ministry of Finance – Member
- (d) A person nominated by the Nepal Government
from among the persons having the special
knowledge in the Insurance Business – Member
- (e) A person nominated by the Nepal Government
from among the Insured – Member

(3) An employee designated by the Board shall perform the duty as a Secretary of the Board.

(4) The Nepal Government may make alteration of the Members of the Board by publishing a notification in the Nepal Gazette, if it deems necessary.

(5) If it is deemed necessary, the Board may invite any national or foreign experts in the meeting of the Board as an observer.

(6) The tenure of the nominated Members of the Board shall be four years. They may be re-nominated up to twice after the expiry of their tenure.

(7) The Head office of the Board shall be located in kathmandu .

4. The Board to be an Autonomous Body : (1) The Board shall be an autonomous and corporate body having perpetual succession.

(2) The Board shall have a separate seal for its business.

(3) The Board may deal as a person to acquire, possess, dispose or otherwise manage the movable and immovable property.

(4) The Board may sue as a person by its own name and the Board also may be sued in its name.

5. Meeting and Decision of the Board : (1) The meeting of the Board shall be held on the date, time and venue as prescribed by the Chairperson.

(2) The meeting of the Board shall be held at least eight times per year and not less than twice within three months.

(3) The meeting of the Board shall be presided by the Chairperson. In the case of his/her absence, the meeting shall be presided by the person selected from among the Members themselves.

(4) The quorum for the meeting of the Board shall be fulfilled in the presence of fifty percent Member of the total Members of the Board.

(5) The opinion of majority shall prevail in the meeting of the Board and in case of tie, the chair person may cast decisive vote.

(6) The decision of the Board shall be certified by the Secretary.

(7) Other procedures relating to the meeting of the Board shall be as determined by the Board itself.

6. Provisions Relating to the Service Conditions and Facilities of the Chairperson : (1) The Nepal Government may appoint or designate a person in the post of Chairperson having special knowledge in the Insurance Business.

(2) The Chairperson shall be the Chief Administrative Officer of the Board and shall have the power and duty to execute the decisions of the Board and supervise and control the functions and activities of the Board.

(3) The tenure of office of the Chairperson shall be four years and he may be re-appointed or designated.

(4) Provisions relating to the service, conditions and facilities of the Chairperson shall be as prescribed.

7. **Employees of the Board** : (1) The Board may appoint necessary employees as prescribed for the operation of its functions.

(2) The remuneration, conditions of service and facilities of the employees of the Board shall be as prescribed.

Chapter – 3

Functions, Duties and Powers of the Board

8. **Functions, Duties and Powers of the Board** : The Functions, Duties and Powers of the Board shall be as follows :

(a) to provide necessary suggestions to the Nepal Government to frame the Policy regarding to systematize, regularize, develop and regulate the Insurance Business.

(b) To frame a policy for the investment of the amount received from the insurance and to prescribe the priority sectors.

(c) To register and renew the ^{*}Insurer, Insurance Agent, Surveyor or Broker and to cancel or cause to cancel such registration.

(d) To arbitrate in the dispute which arises between the Insurer and the Insured.

[#](d1) To make decision on the complaints filed by the Insured against the Insurer regarding to the settlement of liability of the Insurance.

* Amended by first amendment

Inserted by first amendment

(d2) To issue necessary directives to the Insurer from time to time regarding to the Insurance Business.

(e) To formulate necessary basis for the protection of interests of the Insured, and

(f) To do or cause to do other necessary functions regarding to the Insurance business.

9. **Sub-Committee may be Constituted** : (1) The Board may constitute sub-committee as per necessary to conduct its functions smoothly.

(2) The functions, duties and powers of the Sub-Committee and the procedures regarding to the meeting shall be as prescribed by the Board.

Chapter-4

Registration of Insurer, Cancellation of Registration and Liability

10. **Registration of The Insurer** : (1) No Person shall operate or cause to operate the Insurance Business without obtaining a certificate pursuant to this Act.

(2) Any national or foreign corporate body desirous to operate an Insurance Business shall submit an application to the office of the Board in the prescribed form along with the following documents and prescribed fees for the registration of its name as an Insurer :

(a) Memorandum and articles of association of the corporate body,

(b) Insurance Business to be operated and its policies and terms and conditions,

Inserted by first amendment

- (c) If life Insurance Business to be operated, documents displaying calculations of the premiums to be received in operating such business and liability,
- (d) The documents regarding the methods of utilizing the amounts to be received from the Insurance, and
- (e) Other necessary documents as prescribed by the Board.

(3) The Board shall make necessary investigation upon the application received pursuant to Sub-section (2) and shall make an inquiry with the applicant, if necessary, and shall register the name of such applicant in the prescribed register-book by mentioning the types of the Insurance Business to be operated by the applicant and shall provide the registration certificate of Insurer to the applicant in the form as prescribed. In case there is any reasonable ground for not registering the name, the Board shall inform the concerned applicant accordingly. ^Δ

[§](4) Notwithstanding anything contained elsewhere in this Section, in the case of the Life Insurance, the Board shall, with the approval of the Nepal Government, issue a certificate to operate the Business, based on the fulfillment of the criteria which it has fixed, from time to time, in respect of the operation of the Insurance Business.

11. Renewal of Registration of the Insurer : (1) The Insurer shall have to submit an application to the office of the Board in the prescribed form along with the prescribed fees up to the last day of *Chaitra* of each year for the renewal of the certificate of registration.

^Δ Deleted by 2nd Amendment
[§] Inserted by 2nd Amendment

(2) Upon the receipt of the application pursuant to Sub-section (1), the Board shall have to renew the * certificate of registration.

* (3) In case any Insurer submits an application to the Board within thirty days from the date of expiry of the time-limit pursuant to Sub-section (1), mentioning the reason for its failure to submit an application for the renewal of the certificate of registration within the aforesaid time-limit, the Board may, if it considers the reasons to be appropriate, renew the certificate of registration of such Insurer.

#11A. Circumstance on which Certificate of Registration of the Insurer Cannot be Renewed : (1) Notwithstanding anything contained in Section 11, the Board shall not renew the certificate of registration of the Insurer in any of the following circumstances :

- (a) If the balance-sheet has not submitted pursuant to Section 23,
- (b) If the statement of income has not submitted pursuant to Section 24,
- (c) If the audit report has not submitted pursuant to Section 25,
- (d) If the report of Actuary has not submitted pursuant to Section 26,
- (e) If the service-charge has not paid pursuant to Section 40,
- (f) If it has been prohibited to operate the Insurance Business pursuant to Section 12A.

(2) If a circumstance has been created for not renewing the certificate of registration of an Insurer due to any of the circumstance mentioned in sub-section (1), the Board shall notify the Insurer within fifteen days from the emergence of such circumstances.

* Amended by 1st amendment

Inserted by 1st amendment

(3) If the Insurer has submitted an application to the Board within fifteen days from the date of receiving the notice pursuant to Sub-section (2), stating reasonable grounds for not performing the liabilities to be performed pursuant to Section 23, 24, 25, 26 and 40, the Board may, if it considers the reasons to be appropriate, provide an additional time-limit of up to one month to perform such liabilities.

12. Not to be Registered : Notwithstanding anything contained in Section 10, no national or foreign corporate body shall be registered as an Insurer in the following circumstances :

(a) If the name of an Insurer to be registered is identical to the name of another Insurer which has been already registered in the office of the Board, and

[#](a1) If any Insurer wants to be registered for operating Life Insurance and Non-Life Insurance Business,

Provided that, the registered Insurer who is operating the Life Insurance and Non-Life Insurance Business before the commencement of this Act, shall operate the business through a separate organization for Life and Non-Life Insurance Business as prescribed from the date specified by the Board.

[→](b) If the paid-up capital does not amount to at least two hundred fifty million rupees for the Life Insurance Business and to at least one hundred million rupees for the Non-life Insurance Business.

[#](c) In the event that the Board has made a decision to ban to register to additional corporate body as an Insurer to operate Insurance

[#] Inserted by 1st amendment

[→] Amended by 2st Amendment

[#] Inserted by 1st amendment

Business on the basis of the report, regarding to the study, research and evaluation of the Insurance Business market.

#12A. A Ban May Be Imposed on the Insurance Business : (1) The Board may impose a ban entirely or partially or may cancel any type of business being operated by the Insurer under the Insurance Business in any of the following circumstances :

- (a) If the directives provided by the Board time to time regarding the procedures to be followed by the Insurer during the operation of the Insurance Business has been violated,
- (b) If the Insurer provides loan to any corporate body in which any of its Directors or his/her family is working as a Managing Agent or partner or provides guarantee or security of any kind for any loan provided to him/her by others by violating Section 14,
- (c) If the Insurer does not provide information to the Board to be provided pursuant to Section 15,
- (d) If the Insurer does not maintain the accounts and record, to be maintained pursuant to Section 19,
- (e) If the Insurer does not maintain separate accounts and records to be maintained separately pursuant to Section 20,
- (f) If the Insurer does not maintain the fund to be maintained by it pursuant to Section 21 or bears liability of one Insurance Business from the fund maintained for another business,
- (g) If the Insurer does not maintain the compulsory reserve fund to be maintained by it pursuant to Section 22,
- (h) If the Insurer accepts the insurance risk without receiving the insurance premium pursuant to Section 27,

(I) If the Insurer does not re-insure pursuant to Section 28.

(2) Before imposing a ban on the Insurance Business of an Insurer pursuant to Sub-section (1), the Board shall provide a reasonable time-limit to submit clarification to the concerned Insurer clearly stating the reasons for imposing the ban on its Insurance Business.

(3) If the concerned Insurer does not submit its clarification within the time-limit mentioned in Sub-section (2) or the clarification submitted by it is not found to be satisfactory, the Board may impose a ban on the Insurance Business of the concerned Insurer pursuant to Sub-section (1) and shall publish a notice in two major newspapers to be published in Nepal for the information of public in general.

(4) During the time period of a ban on the Insurance Business of any Insurer pursuant to Sub-section (3) such Insurer shall make payment of claims of compensation filed against it as prescribed.

(5) If the ban is imposed in the Insurance Business of any Insurer under this section, the Board may, if it finds the evidence submitted by the Insurer within the time-limit by stating that the circumstances for imposing the ban on its business existed no longer to be satisfactory, impose a fine as prescribed and lift the ban.

13. Registration of an Insurer may be Canceled : (1) The Board may cancel the registration of an Insurer by providing a written notice with effect from the date prescribed in the same notice in the following circumstances:

(a) If the Insurance Business is not started within six months from the date of obtaining the certificate,

- (b) If it is felt that the liability of the Insurer exceeds its assets [#]within Nepal,
- (c) If the Insurer could not fulfill the liability pursuant to the decision within three months from the date of final decision of the court in the case filed under the Insurance Policy issued within Nepal,
- (d) If the head office of the Insurance Business of any foreign Insurer is situated out side Nepal and in case it is felt that Nepalese Insurer has not obtained equal facilities there which are enjoyed by the foreign Insurer pursuant to the prevailing law of such country,
- (e) If the Insurer does not open its office inside Nepal,
- (f) If the Insurer does not perform the functions to be performed or has performed any functions which is not to be performed pursuant to this Act or the Rules made under this Act.

(2) Before canceling the registration of an Insurer pursuant to Sub-section (1), the Board shall provide a reasonable time-limit to submit clarification to the concerned Insurer, stating the reasons for canceling its registration.

(3) If the concerned Insurer does not submit its clarification within the time period mentioned in Sub-section (2) or in case the clarification submitted by it is found not to be satisfactory, the Board shall cancel the registration of such Insurer pursuant to Sub-section (1), and shall publish a notice in two major newspapers to be published Nepal for the information public in general.

(4) Mere cancellation of the registration of an Insurer pursuant to this Section shall not make any effect to the rights and liabilities of the concerned

[#] Inserted by 1st amendment

Insurer regarding to any action taken or functions performed before the cancellation.

- 14. Loan, Guarantee and Security not to be Provided to the Directors :** No Insurer shall provide loans to its Director or #his/her family or any corporate body where he/she is a Managing Agent or partner and no guarantee or surety of any type shall be provided to such person when any person provides loan to him.

Provided that, this Section shall not prevail to loans supplied to the extent of the surrender value of the Insurance Policy issued by the Insurer.

- 15. Notice to be Provided :** If the Insurer has made any dealing regarding the Insurance Business with its Director or #his/her family or any corporate body where he/she is a Managing Agent or partner he/she shall provide a notice to the Board within thirty-five days.

- 16. Payment of Insurance Claims After the Cancellation of the Insurer :**

The Insurer, dissolved by the cause of the cancellation of its registration pursuant to Section 13, shall refund the amount received by it for Insurance to the person, organization or the Board, within the period and method specified by the Board. It shall refund the principal amount along with bonus as specified by the Board in the case of Life Insurance and it shall refund the principal amount as specified by the Board on a proportional basis in the case of Non-Life Insurance.

- 17. Insurer shall be Responsible :** (1) The Insurer shall pay the compensation in case any actions against the rights and interests of the Insurance Policy holders cause losses by the Insurer, employees of the Insurer, Insurance Agents or Surveyors.

(2) [→]The Insured may submit a complaint to the Board as prescribed, if the liability on the compensation for insurance claim is not assessed within the prescribed period of time or if the liability is assessed to the disadvantage, or if the Insurer does not pay the compensation pursuant to Sub-section (1).

[→] Amended by 2st Amendment

(3) The Board shall make necessary investigation into the complaint submitted pursuant to Sub-section (2) and shall provide a reasonable opportunity to the concerned Insurer to submit clarification upon such complaint.

(4) If the clarification submitted by the Insurer pursuant to Sub-section (3) is reasonable, the Board may cancel such complaint by mentioning its ground. If the clarification is not reasonable, the Board shall make a decision to pay the reasonable compensation to the complainant.

(5) If the Board decides to give compensation to the complainant pursuant to Sub-section (4), the Insurer shall pay such amount for the compensation to the concerned Insured. ^Δ

[§](6) If an appeal is made against a decision made by the Board to pay compensation to the complaint pursuant to Sub-section (4) and the decision of the Board is upheld, the concerned Insurer shall promptly pay the compensation plus the interest on the amount of compensation to be set at the rate as prescribed, for the period from the date of original decision to the date of final settlement of the case.

18. Appointment of Liquidator : Nepal Government may appoint a liquidator, if any Insurer has been dissolved due to the cancellation of its registration pursuant to Section 13, The functions, duties and powers of the liquidator so appointed shall be equivalent to those of a government liquidator pursuant to Company Act, 2053.

19. Accounts and Records of the Insurer : (1) The Insurer shall maintain its accounts and records according to Rules.

(2) The situation of actual activity of the Insurer and every item of income and expenditure of the Insurer along with the detail particulars of its assets and

^Δ Deleted by 2nd Amendment
[§] Inserted by 2nd Amendment

liabilities shall be comprehensively mentioned on the accounts and records maintained pursuant to Sub-section (1).

20. Separate Accounts to be Maintained : (1) If any Insurer operates any other business along with the Insurance Business, such Insurer shall maintain a separate accounts and records of its Insurance Business.

(2) The Insurer who deals with more than one Insurance Business shall maintain separate accounts and records for each category of Insurance Business .

21. Insurance Fund : (1) An Insurer shall maintain separate fund for each category of Insurance Business and the amount to be received from each Insurance Business shall be deposited in the concerned fund.

(2) The fund maintained for one category of Insurance Business shall not be utilized to bear the liabilities relating to other category of Insurance Business.

22. Compulsory Reserve Fund : Every Insurer shall maintain a reserve fund as specified by the Board for the liability relating to its Insurance Business inside the Nepal.

23. The Balance-sheet to be Submitted : (1) The Insurer shall publish the balance-sheet and profit and loss account of all transactions regarding the Insurance Business of each year within six months of the expiry of the fiscal year and shall submit a copy to the Board.

(2) If any Insurer submits an application to the Board for the extension of the time limit pursuant to Sub-section (1), for submitting the balance-sheet and profit and loss account, stating the reasonable ground for its inability to do so within the time-limit, the Board may extend the time-limit up to one month.

24. Account of Income to be Submitted : (1) The Insurer shall prepare separate accounts of its income generated from the Insurance Business inside Nepal in the

form as specified by the Board and submit them to the Board within six months after the expiry of the fiscal year.

(2) If any Insurer submits an application to the Board for the extension of the time-limit pursuant to Sub-section (1), for submitting the account of income stating the reasonable ground for its inability to do so within the time-limit, the Board may extend the time-limit up to one month.

25. Audit : [→](1) The Insurer shall have the accounts and records of its Insurance Business audited by an auditor recognized in accordance with the prevailing law and submit a report thereof to the Board no later than ten months from the date expiration of each fiscal year.

(2) Comments (inconsistencies and irregularity) made while performing the audit and the clarification of the management relating to it also shall be mentioned in the report pursuant to Sub-section (1).

26. Valuation to be made by an Actuary : The Insurer, who deals with the Life Insurance Business, shall have to assess the financial position and the valuation of liabilities by an Actuary once in every three years. The Insurer shall submit a copy of the reports submitted by the Actuary.

27. Insurance Premium to be Paid Before Holding the Risk :No Insurer shall hold the insurance risk of any category of Insurance Business until it receives the premium of the Insurance to be obtained by it. It shall be deemed that the Insurer has undertaken the Insurance Business only after receiving the Insurance premium by it for holding the risk.

Provided that, if any practical difficulty arises due to any reason for paying the amount in a lump sum, this Section shall not be deemed to be prohibited to issue

[→] Amended by 2st Amendment

an Insurance Policy on the guarantee of a bank or the Nepal Government relating to the payment of the outstanding amount within a specified period.

28. **Re-insurance to be Made** : The Insurer shall have the risk exceeding the limit of the risk to be held by it re-insured in manner specified by the Board.
29. **Legal Representative to be Appointed** : The Insurer shall appoint a legal representative in his head office inside Nepal.

Chapter –5

***Provisions Relating to Insurance Agent, Surveyor and Broker**

30. **Registration of the Insurance Agents** : (1) Any person desirous to work as an Insurance Agent #possessing a qualification as prescribed shall submit an application to the Board along with the recommendation of the concerned Insurer.

(2) After receiving an application pursuant to Sub-section (1), the Board shall make necessary inquiry upon the application, and if he is qualified to get the license, the Board shall provide a license of an ***Insurance Agent** to the applicant in the form as prescribed by receiving the fees as prescribed. If there is any reason for not providing the license, the Board shall provide its information to the concerned applicant.

- [#]30A. **Registration of the Surveyor** : (1) Any person desirous to work as a Surveyor possessing a qualification as prescribed may submit an application to the Board.

(2) After receiving an application pursuant to Sub-section (1), the Board shall make necessary inquiry upon the application, if he is qualified to get the license, the Board shall provide a license of a Surveyor to the applicant in the form as prescribed by receiving the fees as prescribed. If there is any reason for

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not providing the license, the Board shall provide its information to the concerned applicant.

#30B. Registration of the Broker : (1) Any person desirous to work as a Broker possessing a qualification as prescribed shall have to submit an application to the Board.

(2) After receiving an application pursuant to Sub-section (1), the Board shall make necessary inquiry upon the application, if he is qualified to get the license the Board shall provide a license of a Broker to the applicant in the form as prescribed by receiving the fees as prescribed. If there is any reason for not providing the license, the Board shall provide its information to the concerned applicant.

31. Term and Renewal of the License : (1) ^{*} The Insurance Agent, Surveyor or Broker shall submit an application to the office of the Board in the format as prescribed along with the fees as prescribed by up to the last day of *Chaitra*[∞] of each year for the renewal of his license.

(2) After receiving an application pursuant to Sub-section (1), the Board shall make the renewal of the license of the ^{*}Insurance Agent, Surveyor of Broker.

(3) If any ^{*}Insurance Agent, Surveyor or Broker has submitted an application to the Board stating the ground for his/her inability to submit an application for the renewal of the license within the period pursuant to Sub-section (1), and if the Board feels that ground is reasonable the Board may extend the time-limit for a maximum period of six months by receiving the additional fees as prescribed.

[#] Inserted by 1st amendment

^{*} Amended by 1st amendment

[∞] Approximately Mid of April

32. **Disqualification of the *Insurance Agent, Surveyor or Broker** : No person shall become *an Insurance Agent, Surveyor or Broker in the following circumstances :

- (a) If he/she has not attained the age of sixteen years,
- (b) If he/she is of unsound mind,
- (c) If he/she is an insolvent,
- (d) If he/she has been convicted and sentenced to punishment by a court in the offense involving any type of theft, fraud or misappropriation or embezzlement of the property entrusted to him, or
- (e) If he/she has done anything in the course of work regarding to the Insurance Business causing loss or damage to the Insurer or Insurance Policy Holder.

33. **Cancellation of License** : (1) If any *Insurance Agent, Surveyor or Broker does not renew his license pursuant to Section 31 or if the Board has become confident that such action has been made against the right and interests of Insurance Policy Holder or committed any action contrary to this Act or the Rules made under this Act, the Board may cancel the license of such *Insurance Agent, Surveyor and Broker.

(2) Before canceling the license pursuant to Sub-section (1), the Board shall provide a reasonable time-limit to him to submit his clarification in respect to the charge leveled against him.

* Amended by 1st amendment

Chapter —6

Fund and Audit

34. Fund of the Board : (1) The Board shall have a separate fund of its own and the following amounts shall consist in the fund :

- (a) The amount received from the Nepal Government,
- (b) The amount received from any foreign government or international organization or association,
- (c) The amount received as name registration and renewed fees etc. from the Insurer, Insurance Agent or Surveyor,
- (d) The amount received from service charge,
- (e) The amount received from any other sources.

#34A. Expense of the Board to be Borne From the Fund : All the expenses to be incurred on behalf of the Board shall be borne from the amount credited to the fund of the Board pursuant to Section 34.

35. Accounts and Audit : [→](1) The Board shall accurately maintain the accounts and records of its financial transactions. Such accounts shall so indicate, *inter alia*, the financial transactions, statement of each and every income and expenditure, procurement and sale of goods and detail statements of the assets and liabilities of the Board that the actual situation of the Board is clearly reflected.

(2) The audit of the Board shall be done by the Auditor General's Department.

(3) If the Nepal Government wishes, may examine or cause to examine the documents relating to the accounts and records of the Board as well as its cash and kinds at any time.

Inserted by 1st amendment

[→] Amended by 2st Amendment

Chapter — 7

Miscellaneous

36. **Punishment** : (1) If any Insurer or the Director of the Insurer, employee or *Surveyor, Broker or Insurance Agent knowingly violates this Act or the Rules made under this Act or order or directives or does not perform any function to be performed or does any act not to be done, the Board may punish to such Insurer or the Director, employee or *Surveyor, Broker or Insurance Agent with a fine ranging from three thousand rupees to ten thousand rupees. If such offense has been made frequently, he will be fined at the rate of extra five hundred rupees for each subsequent offense.

(2) If any *Insurer or Insurance Agent or Broker has made any Insurance Business without following the procedures to be followed pursuant to this Act, the Board may fine him up to ten thousand rupees.

(3) If the accounts, records, register, details, information or any other documents to be maintained, prepared, formed or submitted pursuant to this Act or the Rules made under this Act has not maintained, prepared, formed or submitted in time by knowingly or with malafied intention or has maintained or submitted the false details or documents by any-body, he may be punished with a fine up to thirty thousand rupees or imprisonment up to two years or with both.

37. **Appeal** : Any person or corporate body dissatisfied with the decision made by the Board pursuant to this Act, may make an appeal in the concerned Appeal late Court within thirty five days from the date of such decision.

38. **Payment to be made to Designee** : If any Life Insurance Policy Holder dies before the expiry of the term of his/her policy, the amount mentioned in such Insurance Policy shall be paid to the person designated by him/her therein. If he/she has not designated any person or if the designee has already died, payment

* Amended by 1st amendment

shall be made to any of his/her surviving related dependents as follows in the following order and if there are more than one surviving related persons in same order with amount shall be distributed or equal share:

- (a) Husband or wife of the joint family.
- (b) Son, sister and widow daughter-in-law of the joint family.
- (c) Father, mother (in case of the married woman father-in-law, mother-in-law).
- (d) Grandfather, grandmother who have to be taken care of by him/herself and grand son, grand daughter in the line of the son.
- (e) Husband, wife who is living separate.
- (f) Unmarried daughter, son, widow daughter-in-law who is living separate .
- (g) Father, mother who is living separate.
- (h) Step son, step daughter of the joint family.
- (i) Brother, sister of the joint family.
- (j) Father-in-law, mother-in-law living separate in the case of married woman .
- (k) Grand son, unmarried grand daughter who living separate.
- (l) Step mother who is living separate.
- (m) Step son, unmarried step daughter who is living separate.
- (n) Husband's elder brother, elder brother's wife, younger brother of the husband, wife of the husband's younger brother in case of married woman .
- (o) Nephew, neice of joint family.
- (p) Uncle, widow aunty, elder brother's wife, and daughter-in-law of the joint family.

- (q) Brother and sister who is living separate,
- (r) Grandfather, grandmother, grand daughter-in-law, nephew, neice living separately.
- (s) Person living together with in insured person upto the last stage.

(2) If the person designated pursuant to Sub-section (1) dies or if the Insurance Policy Holder wants to replace him, he/she shall write to the concerned Insurer for designating another person. The Insurer also shall have to alter the designated person according to the request of the Insurance Policy Holder and shall provide the written notice thereof to the concerned Insurance Policy Holder.

39. Inquiry or Investigation can be Made : (1) The Board may make an inquiry or investigation or cause to make an inquiry or investigation, as per necessity, in the interests of the Insurance Policy Holder or for any other reasonable cause, to any Insurer or *Insurance Agent or Surveyor or Broker or Insured as well as including all other related persons or corporate bodies, regarding the Insurance Business and also regarding the other business dealt by any Insurer if it has undertaken any other business.

(2) Upon making an inquiry or investigation pursuant to Sub-section (1), it shall be the duty of an Insurer, all employees of the Insurer whether they are in service or retired, *Insurance Agent, Surveyor or Broker, Insured and all other related persons or corporate bodies, to assist, by providing the accounts, records, registers, book accounts, or any other documents, information and replies, to questions asked during the inquiries or investigation.

(3) The expenses incurred for conducting inquiries or investigations pursuant to Sub-section (1) shall be borne by the concerned Insurer.

* Amended by 1st amendment

§39A. Special provisions relating to audit of Insurer : (1) If the Insurer fails to submit the audit report to the Board within the period of time as referred to in Section 25 or if such report has a reasonable ground to confirm an irregularity committed in the Insurance Business or if a complaint is filed with the Board alleging that the accounts and records of the Insurance Business carried on by the Insurer suffer from irregularity, the Board may audit or re-audit, or cause to be audited or re-audited, the Insurance Business of the Insurer.

(2) The Insurer him/herself has to bear all the expenses incurred in the performance of audit or re-audit pursuant to Sub-section (1).

40. Insurance Service Charge : (1) The Board shall provide essential and appropriate service to the Insurer and Insurance Agent.

(2) Every Insurer shall pay an amount equal to one percent of the Gross Premium earning from the Insurance Business inside Nepal in each fiscal year to the Board as specified by Board pursuant to Sub-section (1).

41. Insurance Tariff Advisory Committee : (1) ^{*}The Nepal Government may constitute an Insurance Tariff Advisory Committee to provide necessary advice and recommendation to the Board relating to the determination of the tariff of the Insurance Business consisting the members as follows :

(a) Chairperson, Insurance Board –Chairperson

(b) Three persons from among the Chief of Insurers
as nominated by the Nepal Government –Member

(c) Secretary, Insurance Board –Member-Secretary

(2) The procedures regarding to the meeting of the Advisory Committee shall be as determined by the Committee itself.

[§] Inserted by 2nd Amendment
^{*} Amended by 1st amendment

(3) The functions, duties and powers of the Advisory Committee shall be as prescribed.

#41A. No Transaction Relating to the Insurance Business shall be Operated with Others Than the Insurer : No person or corporate body shall operate any transaction relating to the Insurance Business with other person or corporate body than the Insurer having the Certificate of Registration pursuant to this Act.

#41B. Order of Priority in Settlement of Liabilities : If any Insurer is dissolved due to the cancellation of its registration pursuant to Section 13, the liabilities shall be settled in the following order of priority :-

- (a) The expenses incurred for the dissolution,
- (b) The amount to be paid against the insurance claims to the Insured pursuant to Section 16,
- (c) The remuneration and other outstanding amounts to be obtained by the employees of the Insurer,
- (d) Loan amounts,
- (e) The amount to be paid to the Board,
- (f) The amount to be paid to the Government of Nepal .

42. Annual Report : (1) The Board shall submit an annual report of the work done by it to the Ministry of Finance Government of Nepal.

(2) the Board shall publish a summary of the report submitted pursuant to Sub-section (1) in the local newspaper .

43. Delegation of Power : The Board may delegate its power to the Chairperson, Member, Sub-committee or any employee of the Board as required.

Inserted by 1st amendment

Inserted by 1st amendment

44. **The Government of Nepal may Issue Directives** : The Nepal Government may issue directives to the Board in the interest and for promotion of the Insurance Business, and it shall be the duty of the Board to comply with such directives.
45. **Contact With the Nepal Government** : The Board shall make contact with the Government of Nepal through the Ministry of Finance.
46. **Prevailing Law to Prevail** : This Act shall prevail in matters written in this Act and in other matters prevailing law shall prevail.
47. **Power To Frame Rules and By-laws** : (1) The Government of Nepal may frame necessary Rules to meet the objectives of this Act.
- (2) Subject to the provisions of this Act, the Board may, with the approval of the Government of Nepal, frame necessary By-laws.
48. **Repeal and Saving** :
- (1) The Insurance Act, 2025 is hereby repealed.
- (2) All the actions taken and functions performed before the commencement of this Act shall be considered to have been taken or performed pursuant to this Act.

→ Amended by 2st Amendment