

S.I. 82/2009.

**EXTERNAL INSURANCE (JUDICIAL
MANAGEMENT) REGULATIONS**

(SECTION 46)

[Commencement 21st August 2009]

Citation.

1. These Regulations may be cited as the External Insurance (Judicial Management) Regulations.

Application for leave.

2. Where the Commission applies to the court for leave to present a petition for judicial management the application for leave shall be made *ex parte* to a Judge in chambers.

Application for Petition.

3. (1) An application to the court for an order for judicial management of a company or part of a business of a company shall be by petition supported by affidavit.

(2) Upon hearing the petition the court may dismiss the same with or without costs, may adjourn the hearing conditionally or unconditionally, and may make any interim order, or any other order that it deems just.

Court order.

4. The court may, after the hearing of the petition, make —

- (a) an order to appoint a judicial manager;
- (b) an order specifying the powers and duties of the judicial manager;
- (c) an order to provide for the remuneration, charges and expenses of the judicial manager;
- (d) an order for the judicial manager to be at liberty to apply for further directions; and
- (e) any additional order that the court deems necessary.

Management.

5. Where the court makes an order pursuant to regulation 4(a), the management of the company, or of such part of the business of the company as the order of the court directs, shall, on a date specified in the order, vest in the judicial manager appointed by the court to the exclusion of any person vested with any such management immediately before that date; but the judicial manager shall not issue any new policy or renew any existing policy or enter into any new contract except with the leave of the court.

Report to the Commission.

6. The judicial manager shall —

- (a) give the Commission such information as the Commission requires; and
- (b) report to the Commission whenever he intends to apply to the court for directions and provide the Commission with the particulars of the application for directions.

7. The Commission may make an application to the court with reference to the conduct of the judicial management of a company or of part of the business of the company.

Application of the Commission to court.

8. (1) The court shall issue further directions to the judicial manager as to his powers and duties as it deems desirable in the circumstances of the case.

Application for further directions.

(2) The judicial manager shall act under the control of the court and may apply to the court at any time for directions as to the manner in which he shall conduct the judicial management or in relation to any matter arising in the course of the judicial management.

9. (1) The judicial manager shall conduct the management of the company with the greatest economy compatible with efficiency and shall, as soon as practicable, file with the court a report stating which of the following courses is in the circumstances, most advantageous to the general interest of the policyholders of the company and seeking an order accordingly for —

Report by judicial manager to the Court.

- (a) the transfer of all or any part of the insurance business of the company to some other company in pursuance of a scheme prepared by the judicial manager and annexed to the report;
- (b) the carrying on of its business by the company either unconditionally or subject to such conditions as the judicial manager may suggest;
- (c) the winding-up of the company; or
- (d) any other course as he considers advisable.

(2) The judicial manager shall, after filing the report, give a copy of the report to the Commission.

(3) The report or a copy of the report shall be open for inspection by any person during standard working hours, at the registry of the court in which the report is filed.

Decision of court
on report of
judicial manager.

10. (1) The court shall on the hearing of an application for further directions on judicial management made under regulation 8 —

- (a) after hearing the Commission, the judicial manager and any other person who in the opinion of the court is entitled to be heard; and
- (b) after considering the report of the judicial manager, may make an order giving effect to the course whether similar or not to any of the courses that it considers in the circumstances to be most advantageous to the interests of the policyholders of the company.

(2) The order of the court shall be binding on all persons and shall have effect notwithstanding anything in the instruments constituting the company or in the articles of association or other rules of the company or in any contract.

Cancellation of
judicial
management
order.

11. Where at any time, on the application of the judicial manager or of any person appearing to the court to have an interest in the matter, if it appears to the court —

- (a) that the purpose of the order for the judicial management of the company or of part of the business of the company has been fulfilled; or
- (b) that for any reason it is undesirable that the order should remain in force,

the court may cancel the order and on cancellation, the judicial manager shall be divested of the management which shall again vest in the board of directors or other governing body of the company.

Immunity from
suit.

12. The judicial manager shall not be subject to any action, claim or demand by, or liability to, any person in respect of anything done or omitted to be done in good faith in the discharge of or in connection with the discharge of the functions conferred on the judicial manager by the Act.