

# THE INSURANCE (AMENDMENT) 2015

**Bill No. 8 of 2015**

**Government Gazette of Mauritius No. 41 of 29 April 2015**

## **Explanatory Memorandum**

The object of this Bill is to amend the Insurance Act to provide –

- (a) For the Financial Services Commission to exercise more effective supervision over related companies for an insurer;
- (b) That the Minister may request the Financial Services Commission to appoint a special administrator where he is satisfied, on the basis of a report submitted by the Commission, that the liabilities of an insurer and any of its related companies exceed its assets by at least one billion rupees and that such excess is likely to be a threat to the stability and soundness of the financial system of Mauritius;
- (c) For the transfer of undertaking, in whole or in part, of an insurer and any of its related companies to another insurer and any of its related companies approved by the Minister; and
- (d) For related matters.

**S.BHADAIN**

*Minister of Financial Services,  
Good Governance and Institutional Reforms*

24 April 2015

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## **THE INSURANCE (AMENDMENT) BILL**

(No. VIII of 2015)

### **ARRANGEMENT OF CLAUSES**

*Clause*

1. Short title

2. Interpretation
3. Section 2 of principal Act amended
4. Section 110 of principal Act amended
5. New Part XIA inserted in principal Act

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**A BILL**

**To amend the Insurance Act**

ENACTED by the Parliament of Mauritius, as follows —

**1. Short title**

This Act may be cited as the Insurance (Amendment) Act 2015.

**2. Interpretation**

In this Act —

“principal Act” means the Insurance Act.

**3. Section 2 of principal Act amended**

Section 2 of the principal Act is amended —

- (a) by deleting the definition of “FSC Rules” and replacing it by the following definition-

“FSC Rules” means rules made by the Commission under section 130;

- (b) in the definition of “Minister”, by deleting the word “finance” and replacing it by the words “financial services”;

(c) by inserting, in the appropriate alphabetical order, the following new definitions –

“related company” —

(a) has the same meaning as in the Companies Act;

(b) in relation to an insurer, includes any other entity related to it in any manner provided for in section 2(2) of the Companies Act;

“special administrator” means a special administrator appointed under section 110A;

#### **4. Section 110 of principal Act amended**

Section 110 of the principal Act is amended —

(a) in the heading, by deleting the words “**and conservator**” and replacing them by the words “, **conservator and special administrator**”;

(b) by deleting the words “and the conservator” and replacing them by the words “, conservator and special administrator”.

#### **5. New Part XIA inserted in principal Act**

The principal Act is amended by inserting, after Part XI, the following new Part —

### **PART XIA- SPECIAL ADMINISTRATOR**

#### **110A. Appointment of special administrator**

(1) Notwithstanding section 48 of the Financial Services Act, where the Minister is satisfied, on the basis of a report submitted by the Commission, that the liabilities of an insurer and any of its related companies exceed its assets by at least one billion rupees

and that such excess is likely to be a threat to the stability and soundness of the financial system of Mauritius, he may request the Commission to appoint a special administrator to the whole or part of the business activities of the insurer and any of its related companies.

(2) On receipt of a request under subsection (1), the Commission shall appoint a person who possesses the qualifications of an Insolvency Practitioner under the Insolvency Act as a special administrator in relation to the whole or part of the business activities of the insurer and any of its related companies.

(3) The appointment of any —

- (a) administrator, other than by Court, under section 215 of the Insolvency Act;
- (b) administrator under section 48 of the Financial Services Act; or
- (c) conservator under section 106,

to the insurer and any of its related companies shall end on the appointment of a special administrator under subsection (2) to that insurer and any of its related companies.

(4) In the discharge of his functions under this Act, a special administrator appointed under subsection (2) shall have all the powers, duties and functions of an administrator under the Financial Services Act and Insolvency Act and of a conservator under this Act.

(5) On the appointment of a special administrator under subsection (2), any person whose appointment has ended under subsection (3) shall, not later than 3 days from the appointment of the special administrator, transfer to him all property, books, records, documents and effects of the insurer and any of its related companies.

(6) Any person who contravenes subsection (5) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 12 months.

## **110B. Transfer of undertaking**

(1) A special administrator shall, after consultation with the Commission, transfer, in whole or in part, the undertaking of an insurer and any of its related companies to such insurer and any of its related companies as the Minister may approve.

(2) Notwithstanding any other enactment or any other provision of this Act, a transfer of undertaking under subsection (1) shall not be subject to the consent of any policyholder, shareholder, creditor or any other stakeholder of an insurer and of any of its related companies.

(3) Notwithstanding any other enactment, no winding up proceedings shall be instituted against the insurer and any of its related companies before the transfer of undertaking pursuant to subsection (1).